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**DECLARATION OF CONDOMINIUM
AND
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS,
AND
RESERVATIONS OF EASEMENTS
FOR
THE LOFTS AT IVORY RIDGE CONDOMINIUM
(An Expandable Utah Condominium Project)**



ENT 90151:2013 PG 1 of 64
JEFFERY SMITH
UTAH COUNTY RECORDER
2013 Sep 20 2:31 pm FEE 180.00 BY SS
RECORDED FOR LEHI CITY CORPORATION

LOCATED IN UTAH COUNTY, UTAH

**AFTER RECORDING PLEASE RETURN TO:
ICO Multifamily Development, LLC
Ernest D. Willmore, CCIM
978 East Woodoak Lane
Salt Lake City, Utah 84117
(801) 747-7440**

**DECLARATION OF CONDOMINIUM
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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS,
AND RESERVATION OF EASEMENTS
FOR
THE LOFTS AT IVORY RIDGE
(An Expandable Utah Condominium Project)**

This Declaration of Condominium and Declaration of Covenants, Conditions, and Restrictions, and Reservations of Easements for The Lofts at Ivory Ridge (the "Declaration") is made and executed by The Lofts at Ivory Ridge, LLC, a Utah limited liability company, whose principal address is 978 East Woodoak Lane, Salt Lake City, UT 84117 (hereinafter referred to as the "Declarant").

RECITALS

A. The Tract to be known as "The Lofts at Ivory Ridge" is an area featuring unique and distinctive terrain;

B. By subjecting the Tract to this Declaration, it is the desire, intent and purpose of Declarant to create a residential development in which beauty shall be substantially preserved, which will enhance the desirability of living on or visiting real estate subject to this Declaration, and which will increase and preserve the utility, attractiveness, quality and value of the lands and improvements therein.

C. This Declaration affects that certain real property located in the City of Lehi in Utah County, Utah described with particularity in Article II below (hereinafter referred to as the "Tract").

D. Declarant is the Owner of the Tract.

E. The Tract is subject to and bound by the Master Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for Ivory Ridge Properties, a part of the Ivory Ridge Planned Mixed Use Development, recorded in the official records of the County Recorder of Utah County, Utah on November 14, 2006 as Entry No. 152736:2006, as amended, restated and supplemented (the "Master Declaration").

F. Declarant has constructed or is in the process of constructing upon the Tract a condominium project which shall include certain Units, Common Areas and Facilities, Limited Common Area, and other improvements. The construction will be completed in accordance with the plans contained in the Final Plat to be recorded concurrently herewith.

G. Declarant intends to rent or sell the individuals Units contained in the Tract (together with an appurtenant undivided ownership interest in and the non-exclusive right to use and enjoy the property subject to the Master Declaration, Master Final Plat, this Declaration and the Final Plat for this Tract.

H Declarant desires, by filing this Declaration and the Final Plat for this Tract, to submit the Tract and all improvements now or hereafter constructed thereon to the provisions, covenants, conditions, restrictions and easements set forth herein and in the Master Declaration.

I. Declarant hereby declares that all of the Project shall be maintained, held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the following easements, restrictions, reservations, rights, covenants, conditions and equitable servitudes, all of which are for the purpose of uniformly enhancing and protecting the value, attractiveness and desirability of the Project, in furtherance of a general plan for the protection, maintenance, subdivision, improvement, and sale of the Project. The covenants, conditions, restrictions, rights, reservations, easements, and equitable servitudes set forth herein shall run with and burden the Project and shall be binding upon all persons having or acquiring any right, title, or interest in the Project, or any part thereof, their heirs, successors and assigns and shall inure to the benefit of every portion of the Project.

J. Since the completion of the Project may be in phases, the completed Project will consist of the original phase and all subsequent phases.

COVENANTS, CONDITIONS, AND RESTRICTIONS

NOW, THEREFORE, for the reasons recited above and subject to the covenants, conditions and restrictions set forth below, Declarant hereby makes the following Declaration:

I. DEFINITIONS

When used in this Declaration (including in that portion hereof entitled "Recitals"), each of the following terms shall have the meaning indicated.

1. The term Additional Charges shall mean and refer cumulatively to all collection and administrative costs, including but not limited to all attorneys' fees, fines, late fees, default interest, service fees, filing and recordation fees, and other expenditures incurred or charged by the Association.

2. The term Additional Land shall mean and refer to any additional real property annexed or added to the Project by a supplemental declaration.

3. The term Architectural Review Committee shall mean the person or persons appointed by the Board of Directors to review the designs, plans, specifications, homes, architecture, fencing, and landscaping within the Tract (the "ARC").

4. The term Area of Personal Responsibility shall mean and refer to the private property which each Owner is responsible to maintain.

5. The term Articles of Incorporation shall mean and refer to the Articles of

Incorporation of The Lofts at Ivory Ridge Association on file or to be filed with the Utah Department of Commerce.

6. The term Assessment shall mean and refer to any amount imposed upon, assessed or charged a Unit Owner or Resident at the Project.

7. The term Association shall mean and refer to the association of Owners at The Lofts at Ivory Ridge Neighborhood taken or acting as a group in accordance with this Declaration.

8. The term Board of Directors or Board shall mean the governing board of the Association (sometimes referred to as the Management Committee).

9. The term Builder shall mean an Owner, Declarant or contractor who obtains a construction or occupancy permit for one or more Units.

10. The term Building shall mean and refer to any of the structures constructed in the Project which consist of one or more Units, or one or more detached garages.

11. The term Budget shall mean a written, itemized estimate of the expenses to be incurred by the Association in performing its functions under this Declaration.

12. The term Business Use and Trade shall mean and refer to any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: a) such activity is engaged in full or part-time; b) such activity is intended to or does generate a profit; or c) a license is required therefor.

13. The term Bylaws shall mean and refer to the Bylaws of the Association, a copy of which is attached to and incorporated in this Declaration by reference as Exhibit "B".

14. The term Capital Improvement or Addition shall mean and refer to a permanent addition to or the betterment of real property that enhances its capital value and improves the expenditure of labor or money and is designed to make the property more useful or valuable as distinguished from ordinary repairs.

15. The term City shall mean and refer to the City of Lehi in Utah County, Utah.

16. The term Common Area and Facilities shall mean and refer to all real property in the Ivory Ridge development owned by the MHOA or the Association for the common benefit of the Owners including but not limited to the following items:

(a) The real property and interests in real property submitted hereby, including the entirety of the Tract and all improvements constructed thereon, excluding the individual Units.

(b) All Common Areas and Facilities designated as such in the Master Final Plat;

(c) Any Common Areas designated as such in the Final Plat for the exclusive use of a Unit or Units;

(d) All utility installations and all equipment connected with or in any way related to the furnishing of utilities to the Project and intended for the common use of all Unit Owners, such as telephone, electricity, gas, water, cable television, and sewer;

(e) The Project's outdoor grounds including landscaping, open and green space, entry and monument;

(f) All portions of the Tract not specifically designated as private ownership; and

(g) All other parts of the Project normally in common use or necessary or convenient to the use, existence, maintenance, safety, operation or management of the Property owned by the Association for the common benefit of its Members.

Provided, however, utility installations such as telephone, electricity, gas, water, and sewer may be dedicated to the City and, if so, this definition shall not be construed to allow the Association to exclude the City from the ownership and control of the utility systems so dedicated.

17. The term Common Expense shall mean and refer to:

- (a) All sums lawfully assessed against the Owners;
- (b) Expenses of administration of the MHOA;
- (c) Expenses of administration of the Association;
- (d) Cost of the maintenance, repair or replacement of the Common Area and Facilities;
- (e) Cost of maintenance, repair and replacement of the Exclusive Common Area (if any);
- (f) Cost of maintenance of the Park Strips;
- (g) Expenses allocated by either the MHOA or Association among the Owners;
- (h) Expenses agreed upon as common expenses by the MHOA or the Association;
- (i) Expenses declared as "common expenses" by either the Master Declaration or this Declaration;
- (j) The Association's share of the Master Operating Expenses; and

- (k) The pressurized irrigation bill to the City.
18. The term Community shall mean and refer to the Project.
19. The term Community Standard or Community Wide Standard shall mean and refer to the standard of conduct, maintenance, or other activity generally prevailing in the Community, as determined by the Board from time to time.
20. The term Corrective Assessments shall mean a charge against a particular Owner and his Unit representing the costs to the Association incurred in taking corrective action against an Owner, including without limitation actions taken pursuant to Sections 29, 36, 55 and 57.
21. The term Covenant to Share Costs shall mean and refer to any contract, agreement, declaration of easements, licenses and/or covenant to share costs which creates easements for the benefit of the MHOA, Association or the Owners and/or which obligates the MHOA, Association or the Owners to share the costs of maintaining certain real, personal or mixed property described therein.
22. The term Declarant shall mean and include The Lofts at Ivory Ridge, LLC and any person or persons who might acquire title from it to all or some of the unsold Units or Memberships through purchase, assignment or other transfer including foreclosure or deed in lieu of foreclosure; or, in the situation where, any person purchases all, or some of the remaining Units or Memberships in a sale in the nature of a bulk sale. The person acquiring any of such property from the Declarant shall be considered a Declarant with respect to that portion of the property so acquired and shall have the right to develop the property and/or sell such property in accordance with the terms and provisions of this Master Declaration and this Master Declaration; provided, however, a notice of succession shall be recorded in the Office of the County Recorder signed by both the current Declarant and by its successor in interest as the new Declarant.
23. The term Declaration shall mean and refer to this Declaration of Covenants, Conditions, Restrictions, and Easements for The Lofts at Ivory Ridge.
24. The term Dedicated Streets shall mean and refer to those streets and cul-de-sacs within The Lofts at Ivory Ridge Neighborhood formally dedicated to the City or any other municipal or governmental body politic, entity or agency.
25. The term Delegate shall mean and refer to the voting representative of The Lofts at Ivory Ridge Neighborhood on the Master Association.
26. The term Design Guidelines shall mean and refer to the City and/or Declarant requirements for the improvement of the Tract and/or the construction of homes.
27. The term Developmental Rights shall mean and refer to the right granted hereunder to the Declarant, its agents, representatives, employees, successors and assigns, to develop and improve

the Tract.

28. The term Dwelling or Dwelling Unit shall mean and refer to a Unit constructed in a Building.

29. The term Eligible Insurer shall mean and refer to an insurer or governmental guarantor of a Mortgage or trust deed who has requested notice in writing of certain matters from the Association in accordance with this Declaration.

30. The term Eligible Mortgagee shall mean and refer to a Mortgagee, beneficiary under a trust deed, or lender who has requested notice in writing of certain matters from the Association in accordance with this Declaration.

31. The term Eligible Votes shall mean and refer to those votes available to be cast on any issue before the Association or the Board. A vote which is for any reason suspended is not an "Eligible Vote".

32. The term Exclusive Common Area shall mean and refer to that portion of the Common Area and Facilities (if any) intended for the exclusive use or primary benefit of The Lofts at Ivory Ridge.

33. The term Final Plat shall mean and refer to the Final Plat for The Lofts at Ivory Ridge recorded in the Office of the County Recorder.

34. The term Guest shall mean and refer to an invitee, temporary visitor or any person whose presence within the Project is approved by or is at the request of a particular Resident.

35. The term Improvement shall mean and refer to any physical change or addition to the Land to make it more valuable.

36. The term Individual Charge shall mean and refer to a charge levied against an Owner, Guest or Permittee for all expenses resulting from the act or omission of such Person, excepting the Owner's failure to pay any Assessment. Individual Charges shall include, by way of illustration but not limitation, any expense resulting from the act or omission of any Owner, Guest or Permittee including:

(a) The cost to repair any damage to the property caused by such Person; or

(b) The cost to satisfy any expense caused by the intentional or negligent act or omission or resulting from a breach of the Project Documents; and

(c) Any transient occupancy tax, sales tax, use tax or other tax levied pursuant to the laws of the State of Utah, although this subsection is not considered an acknowledgment that any such tax may be levied.

While Individual Charges are not Assessments, they are secured by a lien in the same manner as

Assessments, as set forth below. The Association also shall have all other remedies, both legal and equitable, described in the Project Documents available against any Owner for nonpayment.

37. The term Landscaping shall mean and refer to the grass, trees, shrubs, bushes, flowers, plants, and like improvements located within the Tract, as well as the appurtenant sprinkling and irrigation systems.

38. The term Lender shall mean and refer to a Mortgagee.

39. The term Limited Common Area shall mean that portion of the property within the Common Area shown on the Plat as dedicated to the exclusive use and enjoyment of the Owner of the Unit to which such Limited Common Area is adjacent and/or appurtenant, and as further provided for herein. Any shutters, awnings, window boxes, doorsteps, porches, balconies, patios, driveways or other apparatus intended to serve a single Unit, but located outside the boundaries of the Unit, shall constitute Limited Common Area appertaining to that Unit exclusively. Limited Common Area shall include any Restricted Limited Common Space assigned by Declarant as further described herein.

40. The term Lofts at Ivory Ridge shall collectively and severally refer to the Tract as shown on the Final Plat, as it may be amended from time to time.

41. The term Majority shall mean and refer to those Eligible Votes of the Owners or other groups as the context may indicate totaling more than fifty (50.0%) percent of the total eligible number.

42. The term Management Committee shall mean and refer to the Board of Directors.

43. The term Manager shall mean and refer to the professional Person appointed or hired by the MHOA to manage and operate Ivory Ridge, including the Tract, and/or assist in the administration of the MHOA and Association.

44. The term Map shall mean and refer to the Final Plat or, where the context clearly requires, the Master Final Plat.

45. The term Master Assessment shall mean and refer to the Assessment assessed by the MHOA.

46. The term Master Association or MHOA shall mean and refer to the Master Association.

47. The term Master Declaration shall mean and refer to the Master Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for the Ivory Ridge Properties.

48. The term Master Operating Expenses shall mean and refer to the Common Expenses

incurred by the MHOA.

49. The term Master Final Plat shall mean and refer to the Final Plat for the entire Ivory Ridge development.

50. The term Member shall mean and refer to an Owner unless the context clearly requires otherwise. The term "Member" shall not include any Mortgagee unless such Mortgagee has acquired title for other than security purposes.

51. The term Membership shall mean and refer to a membership in the Swim and Tennis Club of any kind or nature.

52. The term Mortgage shall mean and refer to any mortgage, deed of trust or other security instrument (including the seller's rights under a contract for deed) by which a Unit or any part thereof or interest therein is encumbered. A First Mortgage is a Mortgage having priority as to all other Mortgages encumbering a Unit, or any part thereof or interest therein.

53. The term Mortgagee shall mean and refer to any person or entity named as the mortgagee, beneficiary or holder of the seller's interest (so long as a copy of the contract for deed is given to the MHOA) under any Mortgage by which the interest of any Owner is encumbered, or any successor to the interest of such person under such Mortgage. A First Mortgagee shall mean and refer to any person or entity holding a First Mortgage including any insurer or guarantor of a First Mortgage. Any and all Mortgagee protections contained in the Declaration shall also protect the Declarant as the holder of a First Mortgage of a Unit, or any interest therein.

54. The term Neighborhood shall mean and refer to any residential, commercial or recreational area within Ivory Ridge which is designated as a Neighborhood, whether or not governed by a Neighborhood Association. In addition, a parcel of land intended for development as any of the above may constitute a Neighborhood, subject to division into more than one Neighborhood upon development. Where the context requires it the Neighborhood Association acting as a group in accordance with its declaration may be considered a Neighborhood.

55. The term Neighborhood Association shall mean and refer to an association of property Owners having jurisdiction, in whole or in part, over a specific Neighborhood concurrent with, but subordinate to, the MHOA or where the context requires the Club Advisory Committee.

56. The term Office of the County Recorder or County Recorder shall mean and refer to the Office of the County Recorder of Utah County, Utah.

57. The term Owner shall mean and refer to a Person who is the Owner of a fee or an undivided fee interest in a Unit or Units, excluding a mortgagee or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

58. The term Park Strip shall mean and refer to the public park strip or strips dedicated to

the City located adjacent to the Tract, including the irrigation system.

59. The term Period of Declarant Control shall mean and refer to a period of time commencing on the date this Declaration is recorded and terminating on the occurrence of the earliest of the following events: (a) the Declarant ceases to own a Unit, or (b) the Declarant executes and records in the Office of the Utah County Recorder a written Waiver of its right to control.

60. The term Permanent Resident shall mean and refer to anyone who resides in the Project for more than four (4) consecutive weeks or for more than eight (8) weeks in any calendar year.

61. The term Person shall mean and refer to a natural person, corporation, partnership, trust, limited liability company, or other legal entity.

62. The term Phase shall mean and refer to a particular stage or area of development within the Project so designated by the Declarant.

63. The term Plans and Specifications shall mean and refer to any and all documents designed to guide or control the construction of an Improvement, or alterations, modifications, changes, additions and the like thereto, including without limitation all documents indicating the size, shape, configuration and/or materials, to be incorporated; all site plans, excavation and grading plans, elevation drawings, floor plans, techniques, samples of exterior colors, plans for utility services, and all other documentation or information relevant to the improvement or proposal in question.

64. The term Plat Map shall mean and refer to Final Plat.

65. The term Private Street, Road, Cul-de-sac, Way or Drive shall mean and refer to those streets, roads, cul-de-sacs, ways, drives or turnabouts within The Lofts at Ivory Ridge Neighborhood not dedicated to the City or any county, state, or other governmental body politic, entity or agency.

66. The term Project shall mean and refer to all of the real property as shown on the Master Final Plat, unless the context clearly requires otherwise, including The Lofts at Ivory Ridge.

67. The term Project Documents shall mean and refer to the Master Declaration, Bylaws, Rules, Articles of Incorporation and Master Final Plat as well as this Declaration, Bylaws, Articles of Incorporation, Rules and Final Plat.

68. The term Property shall mean and refer to all of the land or real estate, improvements and appurtenances comprising The Lofts at Ivory Ridge submitted to this Declaration.

69. The term Qualified Person shall mean and refer to an Owner of a Unit in the Tract.

70. The term Recreational, Oversized, or Commercial Vehicle shall mean and refer to any recreational, commercial or oversized vehicle, motor home, commercial vehicle, tractor, golf cart,

mobile home or trailer (either with or without wheels), camper, camper trailer, boat or other watercraft, boat trailer, jacked-up trucks of any kind, or (in the sole discretion of the Board of Directors) any other recreational or commercial transportation device of any kind.

71. The term Repair shall mean and refer to merely correcting the damage done sometimes by accident or fire or other cause, but more often due to the ravages of time and the deterioration resulting from ordinary wear and tear, by substituting for the damage, decayed or worn-out parts, new material, usually similar to that replaced, and so restoring the structure to its original sound condition.

72. The term Resident shall mean and refer to any person residing, living or staying at a home in the Tract.

73. The term Restricted Limited Common Space shall mean and refer to the unassigned garages.

74. The term Rules and Regulations shall mean rules and regulations as may be adopted and promulgated by the Board pursuant to the Bylaws and this Declaration, as the Board deems necessary or desirable to (i) aid it in administering the affairs of the Association, (ii) insure that the Property is maintained and used in a manner consistent with the interests of the Owners, (iii) regulate the use of the Units, Common Areas and Limited Common Areas and to regulate the personal conduct of the Members and their guests thereon, and (iv) establish penalties and monetary charges for the infractions of the Project Documents, as such may be amended from time to time.

75. The term Single Family shall mean and refer to one of the following: (a) a single person, (b) a group of natural persons related to each other by blood or legally related to each other by marriage or adoption, and an additional person or persons as a caretaker or as domestic help, or (c) a group of not more than three unrelated persons who maintain a common household to be distinguished from a group occupying a boarding house, club, fraternity or hotel.

76. The term Single Family Residence shall mean and refer to (a) both the architectural style of a Dwelling Unit and the nature of the residential use permitted; and (b) a Unit at The Lofts at Ivory Ridge as shown on the Final Plat.

77. The term Special Assessments shall mean and refer to a special assessment approved by the Board of Directors or Owners.

78. The term Swim and Tennis Club shall mean and refer to Ivory Ridge Swim and Tennis Club.

79. The term Total Votes of the Association shall mean and refer to the total number of votes appertaining to all Units at the Tract.

80. The term Tract shall mean and refer to all of the real estate submitted to this Declaration.

81. The term Use Restrictions shall mean and refer to the rules, regulations and use restrictions described with particularity in Article 8 below and the Membership contract or agreement, as they may be modified, amended, repealed, canceled, limited, withdrawn or expanded from time to time.

82. The term Trust Deed for Assessments shall mean the deed of trust created by this Declaration in Article III subsection 36(i) to further secure the Owner's obligations to pay Assessments and to provide the Association with the power of non-judicial trust deed foreclosure provided for in Utah Code Ann. §57-1-19, *et seq.*, as amended from time to time.

83. The term Unit shall mean and refer to a separate physical part of the Property intended for independent use as shown on the Plat Map, including, when the context requires, the Dwelling constructed thereon, one or more rooms or spaces located in one or more floors or part or parts of floors in a Building. Mechanical equipment and appurtenances located within any one Unit or Dwelling, or located without said Unit or Dwelling but designated and designed to serve only that Unit or Dwelling, such as appliances, electrical receptacles and outlets, air conditioning compressors, furnaces, water heaters, apparatus, systems or equipment, fixtures and the like, shall be considered part of the Unit; so shall all decorated surfaces of interior walls, floors and ceilings, including but not limited to all paint, wallpaper, wall coverings, windows and window frames, doors and door frames, trim, carpeting, tile and linoleum. All pipes, wires, conduits, or other utility lines or installations constituting a part of the Unit or Dwelling or serving only the Unit or Dwelling, and any structural members, parts, components or any other property of any kind, including fixtures or appliances within any Unit or Dwelling, which are removable without jeopardizing the integrity, soundness, safety or usefulness of the remainder of the Building within which the Unit or Dwelling is located shall be deemed to be part of the Unit. Each Unit shall be assigned a separate "parcel" or "tax identification" number by the appropriate governmental agency.

(a) Upper and Lower Boundaries. The lower boundary of any Unit is a horizontal plane, the elevation of which coincides with the elevation of the upper surface of the unfinished subfloor thereof, extended to intersect the lateral or perimetric boundaries thereof. The upper boundary of any Unit is a horizontal plane, the elevation of which coincides with the lower surface of the unfinished ceiling thereof, to include the layer of ceiling material within the Unit, extended to intersect the lateral or perimetric boundaries thereof.

(b) Lateral or Perimetric Boundaries. The lateral or perimetric boundaries of a Unit are vertical planes which coincide with the unfinished surfaces of the perimeter walls and the walls dividing the Units, including the inside surfaces of all windows, doors, and vents, extended to intersect the upper and lower boundaries of the Unit and to intersect the other lateral or perimetric boundaries thereof.

84. The term Unit Number shall mean and refer to the number, letter or combination thereof designating a particular Unit.

85. The term Visible From a Neighboring Property shall mean with respect to any object,

that such object is or would be visible to an individual six feet (6') tall, standing at ground level on any portion of the neighboring property.

II. SUBMISSION

The real property being submitted hereby to the Declaration and the Act is described with particularity on Exhibit "A" attached hereto and incorporated herein by this reference, and sometimes referred to herein as the Tract or the Property.

The Tract is hereby made subject to, and shall be governed by the Declaration, and the covenants, conditions and restrictions set forth herein.

The Tract is hereby made subject to the Utah Condominium Ownership Act as described in Utah Code Ann. §57-8-1, *et seq.*, as amended from time to time (hereinafter referred to as the "Act").

The Property is SUBJECT TO the described easements and rights of way.

TOGETHER WITH all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the above-described parcel of real property, including but not limited to Clubview Lane and 100 West.

ALL OF THE FOREGOING IS SUBJECT TO: All liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all Patent reservation and exclusions; any mineral reservations of record and rights incident thereto; all instruments of record which affect the above-described Tract or any portion thereof, including, without limitation, any Mortgage or deed of trust; all visible and necessary easements and rights-of-way; all easements and rights-of-way of record; any easements, rights of-way, encroachments, or discrepancies shown on or revealed by the Plat Maps or otherwise existing; an easement for each and every Common Area and Common Facilities, including all equipment, pipes, lines, cables, wires, utility systems, or similar facilities which traverse or partially occupy the above-described Tract; and all easements necessary for servicing, repairing, ingress to, egress from, maintenance of, and replacement of all such Common Area and Common Facilities, including all equipment, pipes, lines, cables, wires, utility systems, and similar facilities.

III. COVENANTS, CONDITIONS, AND RESTRICTIONS

The foregoing submission is made upon, under and subject to the following covenants, conditions, and restrictions:

1. Description of Improvements. The significant improvements contained in the Project include Buildings, Units, Common Area and Facilities, Limited Common Area, Restricted Limited Common Space, and improvements of a less significant nature, to the extent the same are actually constructed by Declarant in Declarant's sole discretion. There will be three (3) Buildings, consisting of three (3) stories, and forty-five (45) Units. There will several models or Unit types. The principal building materials containing a variety of wood, brick, stucco, hardieboard, and vinyl. The

location and configuration of the improvements referred to in the foregoing sentences are depicted on the Plat Map.

2. Description and Legal Status of the Property. The Plat Map shows the type and location of each Unit and its Unit Number, which are reserved for the exclusive use of a Unit or Unit Owners, and the Common Areas and Facilities in the vicinity. The Common Area is dedicated and deeded to the Owners in an equal and uniform undivided percentage of ownership interest, with each Owner having a corresponding membership interest in the Association appurtenant to his Unit. All Units shall be capable of being independently owned, encumbered, and conveyed, and shall have separate tax identification or parcel numbers. The Restricted Limited Common Space will be assigned by the Declarant to a particular Unit either by a recorded Supplemental Declaration, Supplemental Plat or written "Notice of Assignment of Garage". Once so designated by the Declaration, Plat Map or written assignment, the Restricted Limited Common Space shall be permanently appurtenant to a residential Unit, shall run with the land, and may not be separated therefrom.

3. Membership in the Association and Voting Allocations. Membership in the Association is mandatory and may not be partitioned from the ownership of a Unit. Each Unit Owner by virtue of his accepting a deed or other document of conveyance to a Unit is deemed to be a member of the Association. Each Unit shall have one (1) vote. No vote shall be cast or counted for any Unit not subject to assessment. When more than one (1) person or entity holds such interest in a Unit, the vote for such Unit shall be exercised as those persons or entities themselves determine and advise the Secretary of the Association prior to any meeting. In the absence of such advice, the vote of the Unit shall be suspended in the event more than one (1) person or entity seeks to exercise it. Any Owner of a Unit which has been leased may, in the lease or other written instrument, assign the voting right appurtenant to that Unit to the lessee, provided that a copy of such instrument is furnished to the Secretary at least three (3) days prior to any meeting.

4. Incorporation of the Association. The Association shall be in the form of a corporation. If for any reason the Association loses such status, the Board may re-incorporate or reinstitute the corporation without any additional approval required.

5. Conveyancing. Any deed, lease, Mortgage, deed of trust, or other instrument conveying or encumbering a Unit shall describe the interest or estate involved substantially as follows:

All of [Building No _____] [Unit No. _____] contained within THE LOFTS AT IVORY RIDGE, PHASE [_], an Expandable Utah Condominium Project, as the same is identified in the Plat Map recorded in Utah County, Utah as Entry No. _____ in Book _____ at Page _____ of the official records of the County Recorder of Utah County, Utah (as said Plat Map may have heretofore been amended or supplemented) and in the Master Declaration of Covenants, Conditions, and Restrictions of IVORY RIDGE, recorded in Utah County, Utah as Entry No. _____ in Book _____ at Page _____ of the official records of the County Recorder of Utah County, Utah (as said Master Declaration may have heretofore

been supplemented), and the Declaration of Condominium for THE LOFTS AT IVORY RIDGE CONDOMINIUM recorded in Utah County, Utah as Entry No. _____ in Book _____ at Page _____ of the official records of the County Recorder of Utah County, Utah, together with an appurtenant undivided percentage of ownership interest in the Common Areas.

Regardless of whether or not the description employed in any such instrument is in the above-specified form, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Unit. Neither the membership in the Association, nor the percentage of undivided ownership interest in the Common Areas, shall be separated from the Unit to which it appertains; and, even though not specifically mentioned in the instrument of transfer, such mandatory membership in the Association and such right of undivided ownership interest in the Common Areas shall automatically accompany the transfer of the Unit to which they relate.

6. Rights of Owners. Except as may be specifically set forth in the Project Documents, neither the Board nor the Members may adopt any Rules and Regulations in violation of the following provisions, though where not specifically provided for otherwise the following provisions may be altered by an amendment to this Declaration if permitted by law:

(a) Similar Treatment. Similarly situated Owners and occupants shall be treated similarly.

(b) Religious and Holiday Displays. The rights of Owners and occupants to display religious and holiday signs, symbols, and decorations on their Units of the kinds normally displayed in residences located in single family residential neighborhoods shall not be abridged, except that the Association may adopt time, place, and manner restrictions regulating displays which are visible from outside the Unit.

(c) Household Composition. No rule shall interfere with the freedom of occupants of Units to determine the composition of their households, except that the Declaration limits residency in a Dwelling to a Single Family and the Association shall have the power to limit the total number of occupants permitted in each Dwelling on the basis of the size and facilities of the Dwelling and its fair share use of the Common Area.

(d) Activities Within Units. No rule shall interfere with the activities carried on within the confines of Units, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Units, that generate excessive noise or traffic, that create unsightly conditions visible from outside the Unit, or that create any unreasonable sound or annoyance.

(e) Allocation of Burdens and Benefits. No rule shall alter the basis for allocation of financial burdens among various Units or rights to use the Common Area to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from changing the use of the Common Area and Limited

Common Area, from adopting generally applicable rules for use of Common Area and Limited Common Area, or from denying use privileges to those who abuse the Common Area, violate Project Documents, or fail to pay assessments. This provision does not affect the right to increase the amount of Assessments.

(f) Alienation. Subject to the restrictions found in Section 7 herein, no rule shall prohibit the leasing or transferring of any Dwelling, or require consent of the Association or Board for leasing or transferring of any Unit.

(g) Reasonable Rights to Develop. No rule, amendment to this Declaration, or action by the Association or Board shall unreasonably impede Declarant's right to develop in accordance with the Project Documents and Declarant's plans for the Project, including, but not limited to, the rights of the Declarant as set forth herein.

(h) Abridging Existing Rights. Any rule which would require Owners to dispose of personal property being kept on the Property shall apply prospectively only and shall not require the removal of any property which was being kept on the Property prior to the adoption of such rule and which was in compliance with all Rules and Regulations in force at such time unless otherwise required to be removed by law. The limitations in this subsection shall apply to Rules and Regulations only; they shall not apply to amendments to this Declaration.

(i) Nature and Restrictions on Ownership and Use in General. Each Owner shall have and enjoy the privileges of fee simple ownership of his Unit. There shall be no requirements concerning who may own a Unit, it being intended that they may and shall be owned as any other property rights by any Person. The Project shall be used only for residential purposes, except as expressly set forth below, and the Common Areas and Limited Common Areas, including the Restricted Limited Common Space, shall only be used in a manner consistent with the residential nature of the Project.

(j) Mandatory Association. Each purchaser of a Unit by virtue of his acceptance of a deed or other document of conveyance shall automatically become a Member of the Association.

(k) Joint or Common Utility Easements with Neighboring Subdivisions, Projects or Developments. The Declarant for itself and/or its successors in interest (including but not limited to the Association), hereby reserves the irrevocable and exclusive right, without any additional consent required, to enter into easement agreements with or to convey to owners or developers of adjoining subdivisions, projects or developments any and all reasonable and necessary utility easements or rights of way for gas, water, power, sewer, storm drain systems or the like under, over, across or through the Project.

(l) Easements and Rights of Way. Declarant hereby grants and conveys to the Association and each Owner and Resident, as well as their family members, tenants, guests and invitees, the non-exclusive and perpetual right to use and access the roads, trail, and common sidewalks for vehicular and pedestrian traffic. In addition, every Member of the Association shall as an Owner have the right and non-exclusive easement to use and enjoy the Common Area and

Facilities. Such right and easement shall be appurtenant to and shall pass with the title to every Unit, subject to the following restrictions: (1) The right of the Association to limit the number of guests, occupants and residents; (2) The right of the Association to suspend the voting privilege; and (3) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for the purpose of regulating transportation, maintaining the roadways or providing utilities and other similar or related purposes. During the Period of Declarant Control, any such dedication or transfer shall be effective only if approved in writing by the Declarant. Subject to the Project Documents, each Owner shall be entitled to the exclusive ownership and possession of his Unit, to the exclusive use of Limited Common Area appurtenant to the Owner's Unit, including any appurtenant Restricted Limited Common Space, to use the Common Area, to an equal undivided percentage of ownership interest in the Common Area, and to membership in the Association as set forth herein.

(m) Rules and Regulations. The Association, acting through its Board, shall have the power and authority to adopt administrative or house Rules and Regulations, which shall be binding upon all Owners and Residents, and their family, guests, visitors, invitees, and employees.

(n) Restrictions and Limitations of Use. The use of the Units is subject to the following limitations and restrictions (the "Use Restrictions"):

(1) Parties Bound. All provisions of the Project Documents, including without limitation the Declaration, By-Laws, and Rules and Regulations shall be binding upon all Owners, Residents and Permanent Residents, and their family members, guests, visitors, invitees, and employees.

(2) Nuisance. It shall be the responsibility of each Owner and Resident to prevent the creation or maintenance of a nuisance in, on or about the Project. The term "nuisance" includes but is not limited to the following:

a. The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about his Unit, appurtenant Limited Common Area or the Common Area;

b. The storage of any item, property or thing that causes any Unit, Limited Common Area or the Common Area to appear to be in an unclean or untidy condition or that will be noxious to the senses;

c. The storage of any substance, thing or material upon any Unit, Limited Common Area or in the Common Area that emits any foul, unpleasant or noxious odors, or that causes any noise or other condition that disturbs or might disturb the peace, quiet, safety, comfort, or serenity of the other residents at the Project;

d. The creation or maintenance of any noxious or offensive condition or activity in or about any Unit, Limited Common Area or the Common Area;

e. Actions or activities tending to cause embarrassment, discomfort, annoyance, distress or a disturbance to any other residents, their guests or invitees, particularly if the police or sheriff must be called to restore order;

f. Maintaining any plants, animals, devices or items, instruments, equipment, machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Community by other residents, their guests or invitees;

g. Creating or allowing an unreasonable amount of noise or traffic in, on or about any Unit, Limited Common Area or the Common Area, especially after 10:00 p.m. and before 8:00 a.m.; and

h. Violation of U.C.A., Section 78-38-9 (1999) (i.e., drug houses and drug dealing; gambling; group criminal activity; prostitution; weapons; parties), as it may be amended or supplemented from time to time.

(3) Signs; Unsightly Work and Unkempt Conditions. No "For Sale" or "For Rent" or other signs or banners are permitted in the Common Area or so as to visible from the street, unless approved in writing by the Board. Activities which might tend to cause disorderly, unsightly, or unkempt conditions shall not be pursued or undertaken on any part of the Project.

(4) Removing Garbage, Dust and Debris. All rubbish, trash, refuse, waste, dust, debris and garbage shall be regularly removed from the Unit, not be allowed to accumulate unreasonably, and stored in the approved receptacles.

(5) Subdivision of a Unit. No Unit shall be subdivided or partitioned.

(6) Firearms, Incendiary Devices and Graffiti. The use of firearms and incendiary devices, or the painting of graffiti, within the Project is prohibited. The term firearms includes but is not limited to all guns, pistols, handguns, rifles, automatic weapons, semi-automatic weapons, BB guns, pellet guns, sling shots, wrist-rockets, blow-dart guns, paint-ball guns, and other firearms of all types, regardless of size.

(7) Temporary Structures. No Owner or occupant shall place upon any part of the Project any temporary structures including but not limited to tents, trailers, or sheds, without the prior written consent of the Board.

(8) Trees, Shrubs and Bushes; Maintenance of Proper Sight Distance at Intersections. All property located at or near driveways, entrances, exits, walkways, paths and street intersections or corners shall be landscaped so as to remove any obstructions and to permit safe sight. No fence, wall, hedge, shrub, bush, tree or monument, real or artificial, shall be planted or placed by any Owner or occupant in, on or about the Common. The Board may alter or remove any objects planted or placed in violation of this subsection.

(9) Energy Conservation Equipment. Except in compliance with U.C.A. Section 17-27-601, 10-9a-610 or City ordinance (as the case may require), as such may be amended from time to time, no solar energy collector panels, other energy conservation equipment or attendant hardware shall be constructed or installed on the Project, and such installations must be approved by the Board in advance.

(10) Business Use. Except for uses allowed by the local Home Occupation zoning and ordinances, no Business Use or Trade may be conducted in or from any Unit unless: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Unit; (b) the business activity conforms to all zoning requirements for the Project; (c) the business activity does not involve persons coming onto the Project who do not reside in the Project or door-to-door solicitation of residents of the Project; and (d) the business activity is consistent with the residential character of the Project and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Project, as may be determined in the sole discretion of the Board. Notwithstanding the above, the leasing of a residence shall not be considered a trade or business within the meaning of this subsection.

(11) Home Occupation. Units may be used for any use permitted by applicable Home Occupation zoning and ordinances, including all permitted accessory uses. Notwithstanding anything to the contrary herein, Units with Home Occupation may not create a nuisance, unreasonable light, noise, pollution, offensive odor, electric and utility overloading, violation of insurance standards, unreasonable storage of trash, refuse and materials, or activities which are inconsistent with the mixed-use nature of the Project.

(12) Storage and Parking of Vehicles. The driving, parking, standing and storing of motor vehicles in, on or about the Project shall be subject to the following:

a. The parking Rules and Regulations adopted by the Board from time to time;

b. The parking areas are not designed for Recreational, Oversized, or Commercial Vehicles (as defined in Article I herein) and the Board has the right to make Rules and Regulations restricting or prohibiting their use within the Project. All such vehicles shall be parked in garages or outside the Project, except for purposes of loading and unloading. Eighteen wheelers may not be parked within the Project.

c. No motor vehicle or trailer, including but not limited to any car, automobile, truck, van, Recreational, Oversized, or Commercial Vehicle or any other transportation device of any kind may be parked or stationed (except for purposes of loading or unloading), in such a manner so as to create an obstacle or potentially dangerous situation, or along any street or road, or in front of any parking amenity, sidewalk, walkway, driving lane, Building or Unit, or in an unauthorized portion of the Common Area.

d. Residents may only park their motor vehicles within their driveways, garages, or in other designated Common Areas.

e. No parking is allowed in "red zones," "fire lanes," or unauthorized areas.

f. Visitors or guests shall park their motor vehicles in Common Areas designated for "guest" or "visitor" parking. Owners, Residents and Occupants shall not park in "guest" or "visitor" spaces.

g. No Owners or Residents shall disassemble, assemble, repair or restore any vehicle of any kind in, on or about any Unit, Limited Common Area or Restricted Limited Common Space, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility.

h. No motor vehicle shall be parked in such a manner as to inhibit or block access to a Building, driving lane, parking space, driveway, garage, entry, exit, or parking area.

i. All parking areas shall be used solely for the parking of motor vehicles used for personal transportation. Disabled or inoperable vehicles, motor vehicles not currently licensed or registered, or vehicles with more than \$1,000 damage may not be stored in the street, driveway, or other place so as to be visible to the general public or Residents of the Project.

j. No garage may be used or altered so that it parks less than the number of motor vehicles for which it was originally designed.

k. The nature of the intended use of a garage as a parking garage for motor vehicles may not be changed or altered without the prior express written consent of the Board.

l. Vehicles parked in violation of this Declaration or parking Rules and Regulations adopted by the Board may be immobilized, impounded, and towed **WITHOUT ADDITIONAL NOTICE** and at the Owner's sole expense. By virtue of bringing a motor vehicle on to the Property, the driver agrees to indemnify, defend, save and hold the Association, Board and members of the Board harmless from any loss, damage or claim caused by or arising out of the immobilizing, impounding, or towing of a motor vehicle pursuant hereto.

m. The parking stalls within the Project will be designated by numbers. Until permanently assigned they are Restricted Limited Common Space. Once permanently assigned they will be Limited Common Area.

(13) Bicycles. Bicycles in the Common Areas must be parked or stored in the bicycle racks or storage areas designated by the Board.

(14) Aerials, Antennas, and Satellite Systems. The Declarant may but is not required to install a satellite dish or dishes and/or provide individual feeds for each Unit. The Association shall comply with FCC guidelines. Owners or Residents may not install aerials,

antennas, satellite dishes or other systems in the Common Area without written Board approval.

(15) Window Coverings. No-aluminum foil, newspapers, reflective film coatings, sheets, bedspreads, or any other similar materials may be used to cover the exterior windows of any Building or Dwelling Unit. Sun shades are not allowed on the exterior of any Building.

(16) Windows. All windows and window units in the Project shall be harmonious, and comparable in size, design and quality so as not to detract from uniformity in appearance and quality of construction.

(17) Pets. No pets, animals, livestock or poultry of any kind shall be bred in, on or about the Project. Up to two (2) domestic pets per Unit are allowed. Pets must be properly licensed and registered by the appropriate governmental agency where required. Pets may not create a nuisance. The following acts may constitute a nuisance: (a) causing damage to the property of anyone other than the pet owner; (b) causing unreasonable fouling of the air by odors; (c) causing unsanitary conditions; (d) defecating on any Limited Common Area or the Common Area when the feces are not immediately cleaned up by the responsible party; (e) barking, howling, whining or making other disturbing noises in an excessive, continuous or untimely fashion; (f) molesting or harassing passersby by lunging at them or chasing passing vehicles; (g) attacking or threatening to attack people or other domestic animals; (h) otherwise acting so as to bother, annoy or disturb other reasonable residents or interfering with their right to the peaceful and quiet enjoyment of their property; or (i) the mere number of pets maintained creates an offensive or dangerous condition to the health, welfare or safety of other residents. Pets in the Limited Common Area and Common Area must be in a cage or on a leash and under the control of a responsible person. Pets may not be tied or tethered in the Common Area, or left unattended in the Limited Common Area. The Board may establish Pet Rules and Regulations and charge a reasonable pet deposit and/or a registration fee.

(18) Wildlife. Capturing, trapping or killing wildlife within the Property is prohibited, except in circumstances posing an imminent threat to the safety of persons or pets using the Property.

(19) Vegetation. Activities which materially disturb or destroy the vegetation, wildlife, or air quality within the Property or which result in unreasonable levels of sound or light pollution are prohibited.

(20) Lubricants, Oil and Gas. Disposal of any oil, gas, or lubricants, and the storage or disposal of other hazardous materials (as may be determined in the Board's reasonable discretion and as defined by applicable law) anywhere within the Property is prohibited.

(21) Electronic Transmitters. No electronic or radio transmitter of any kind, other than garage door openers, shall be located or operated in or on the Property without the prior consent of the Board.

(22) Erosion, Dust or Pollen. Behavior which causes erosion or

unreasonable amounts of dust or pollen is prohibited.

(23) Driveway, Entry, Deck, Patio and Balcony. The Board may adopt reasonable Rules and Regulations to regulate and control the appearance and use of driveways, entries, decks, patios, and balconies within the Project, including by way of illustration but not limitation a regulation limiting items on the patio to "patio furniture"; prohibiting clotheslines and the hanging of clothes and other items over the railings; planters and plants; and the storage of personal property, furnishings, appliances, junk, boxes, furniture, and effects in public view.

(24) Insurance. Nothing shall be done or kept in, on or about any Unit or in the Common Area or Limited Common Area which may result in the cancellation of the insurance on the Property or an increase in the rate of the insurance on the Property, over what the Board, but for such activity, would pay.

(25) Laws. Nothing shall be done or kept in, on or about any Unit or Common Areas, or any part thereof, which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body.

(26) Damage or Waste. No damage shall be caused to, or waste of, the Common Area and Facilities or Limited Common Area by any Owner or Resident, or their family members, guests or invitees; and each Owner and Resident shall indemnify and hold the Board and the other Owners in the Project harmless against all loss resulting from any such damage or waste caused by that Owner or Resident, or their family members, guests or invitees; provided, however, that any invitee of the Declarant shall not under any circumstances be deemed to be an invitee of any other Owner.

(27) Structural Alterations.

(a) Except in the case of an emergency repair, no structural alterations, plumbing, electrical or similar work within the Common Area and Facilities or Limited Common Area shall be done or permitted by any Owner without the prior, express written consent of the Board. Structural alterations within the footprint of the Building or roof as shown on the Plat Map may be authorized by the unanimous consent of the Board (and governmental agency responsible for the issuing of all building permits, licenses, etc.), and the additional approval of the other Unit Owners shall not be required.

(b) No exterior changes whatsoever shall be commenced, erected, maintained, made, or done without the prior express written approval of the Board of Directors or Architectural Review Committee established by the Board for that purpose. By way of illustration, but not of limitation, the following are considered exterior changes: painting, landscaping, excavation, patio covers, screens, doors, evaporative coolers, fireplaces, skylights, storage buildings, solar collectors, geothermal products, wind turbines or other alternate energy resources, shade screens, awnings, window coating or tinting, decorative alterations, and other work that in any way alters the exterior appearance of the Property. The Board of Directors or Architectural Review Committee established by the Board for that purpose, may designate the design, style, model and manufacturer of any exterior improvement or alteration that is acceptable to the Board of Directors.

Such designations shall be for the purpose of achieving uniformity of appearance and preservation and enhancement of property values.

7. Leasing. There are no restrictions on the rental or leasing of Units. This section may not be amended without the express prior written consent of the Declarant, anything to the contrary notwithstanding.

8. Easements.

(a) Grant of Easement. Declarant hereby reserves to itself and grants to the Association, a non-exclusive, perpetual right-of-way and easement over, across and through the Tract, together with the right to use, operate, maintain, repair and replace the Common Areas and Facilities, subject to all of the terms, covenants, conditions and restrictions set forth herein.

(b) Common Use of Easement. Said easement is to be used in common by the Association, Declarant and each Owner, subject to all of the terms, covenants, conditions and restrictions set forth herein.

(c) Private Easement. The easement created is intended to be used as a private non-exclusive easement for the exclusive use and benefit of Declarant, Association and Owners.

(d) Improvements. Improvements, including Buildings, Units, Common Areas and Facilities, Limited Common Area and Restricted Limited Common Space constructed as subsequent phases of the Project may encroach upon portions of the Common Areas and Facilities of earlier phases of the Project. A perpetual easement for such encroachment necessary to repair, maintain and operate such improvements is hereby granted.

(e) Rights of Access. Each Owner shall have the right to ingress and egress over, upon and across the Common Areas and Facilities as necessary for access to the Building and Unit he is occupying and to any Limited Common Area and Restricted Limited Common Space appurtenant to his Unit, and he shall have the right to the horizontal, vertical and lateral support of his Unit.

(f) Declarant's Easement. The Declarant hereby reserves to itself, and its affiliates and assignees, an exclusive easement to make such use of the Common Areas and Facilities as may be necessary or convenient to perform the duties and functions that each is obligated or permitted to perform pursuant to this Declaration, including, without limitation, the right to construct and maintain the Common Areas and Facilities for use by the Association and Owners.

(g) Construction Easements. The Declarant hereby reserves for itself and its affiliates and assignees a temporary construction easement over the Common Areas and Facilities for the purpose of doing all things that are reasonably necessary as a part of constructing any new improvements for the Project including all physical improvements as well as all Buildings and Units. The Owners by acceptance of a deed or other document of conveyance to a Unit do hereby acknowledge and agree that there will be construction activities, traffic, noises, odors and vibrations which may temporarily disrupt their quiet enjoyment of their property until all improvements are

complete, and such Owners do hereby waive any right to object to such construction activity; provided, however, Declarant shall endeavor to use reasonable efforts to minimize the adverse impact of such construction activities on the Owners. Declarant's construction activities pursuant to the easement granted hereunder shall not be considered a violation of the Use Restrictions.

(h) Locations Facilities Easements. Declarant hereby reserves to itself a non-exclusive easement for itself and its affiliates and assignees to construct, operate, maintain, repair and replace all types of telecommunication facilities, including but not limited to roof antennas, within suitable locations for such facilities (the "Locations of Facilities") within the Project. Declarant further reserves a right of access to the Locations of Facilities over, across, and through all other Common Areas and Facilities in order to access the Locations of Facilities to exercise the rights established herein. Declarant reserves the perpetual right to transfer by easement, license agreement or other conveyance the rights reserved hereunder to one or more telecommunication facilities providers. Declarant may exercise all of such rights unilaterally and without the consent of any Owner, Mortgagee or the Association. The Association, for itself and on behalf of all Owners, agrees to execute such further and additional instruments as may be requested by Declarant documenting the rights hereunder, in form satisfactory to the Declarant, and any assignee of its rights hereunder.

(i) Access Roads. Declarant hereby reserves to itself and hereby grants to the Association a non-exclusive access easement and right of way over, across, under and through the private roads, to the north, Clubview Lane, and to the west, 100 West, providing vehicular, pedestrian and utility access to the Project. The Association shall pay its prorata share of the cost of maintaining, repairing and replacing said access roads, and hereby covenants to share that cost. The access road shall be maintained in a state of good condition and repair.

(j) Support, Maintenance and Repair. The Declarant hereby reserves to itself and hereby grants to the Association a non-exclusive easement over, across, through, above and under the Units, Buildings, Limited Common Area, Restricted Limited Common Space, and all other Common Area for the (i) location and installation of the main gas line(s), sewer line(s), water line(s) and/or any other utility service lines in the Buildings and (ii) the operation, regulation, maintenance, repair and replacement of said gas line(s), sewer line(s), water line(s), other utility service lines in the Buildings, and other Common Area and Facilities.

9. Liability of Owners and Residents For Damages. Each Owner or Resident shall be liable to the Association, or other Owners or Residents for damages to person or property in the Community caused by his negligence.

10. Encroachments. If any part of the Common Areas and Facilities encroaches or shall hereafter encroach upon a Building or Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Building or Unit encroaches or shall hereafter encroach upon the Common Areas and Facilities, or upon an adjoining Building or Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. Such easements shall extend for whatever period the encroachment exists. Such encroachments shall not be considered to be encumbrances either on the Common Areas and Facilities, Buildings or Units.

Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of any improvement constructed or to be constructed within the Project, by error in the Plat Map, by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

11. Governing Board. The Association shall be managed by a Board of Directors comprised of three (3) Unit Owners who shall be duly qualified and elected, except that during the Period of Declarant Control the Board need not be comprised of Unit Owners.

12. Status and General Authority of Board. During the Period of Declarant Control, the Declarant reserves the right to appoint the members of the Board. Any instrument executed by the Board that recites facts which, if true, would establish the Board's power and authority to accomplish through such instrument what is purported to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument. The Association shall, in connection with its exercise of any of the powers delineated below, constitute a legal entity capable of dealing in its name. The Board shall have, and is hereby granted, the following authority and powers:

(a) Access. The Board or Manager shall have the right to have access to each Unit, Limited Common Area, Building, including Restricted Limited Common Space, and the Common Areas and Facilities, including the main gas line(s), sewer line(s), and/or water line(s) located within the Buildings: (1) from time to time during reasonable hours and after reasonable notice to the occupant of the Unit being entered, as may be necessary for the maintenance, repair, or replacement of any of the Common Areas and Facilities; and (2) for making emergency repairs necessary to prevent damage to the Common Areas and Facilities or to another Unit or Units, provided that a reasonable effort is made to provide notice to the occupant of the Unit prior to entry. For purposes of this subsection the term "emergency" means an event or occurrence which threatens to cause substantial and imminent damage to person or property.

(b) Grant Easements. The authority, without the vote or consent of the Owners, Mortgagees, insurers or guarantors of any Mortgage, or of any other person, to grant or create, on such terms as it deems advisable, reasonable permits, licenses, and non-exclusive easements over, under, across, and through the Common Areas for utilities, roads, and other purposes reasonably necessary or useful for the proper maintenance, operation or regulation of the Project.

(c) Execute Documents. The authority to execute and record, on behalf of all Owners, any amendment to the Declaration or Plat Map which has been approved by the vote or consent necessary to authorize such amendment.

(d) Standing. The power to sue and be sued.

(e) Enter Into Contracts. The authority to enter into contracts which in any way concern the Project, so long as any vote or consent necessitated by the subject matter of the agreement has been obtained.

(f) Transfer Interests in Real Property. The power and authority to exchange, convey or transfer, in accordance with the Utah Revised Nonprofit Corporation Act, any interest in real property, so long as it has been approved by at least sixty-seven percent (67%) of the Eligible Votes of the Owners.

(g) To Add or Purchase Property. The power and authority to purchase, otherwise acquire, and accept title to, any interest in real property, so long as it has been approved by at least sixty-seven percent (67%) of the Eligible Votes of the Owners.

(h) Promulgate Rules. The authority to promulgate such reasonable administrative guidelines, rules, regulations, policies and procedures as may be necessary or desirable to aid the Board in carrying out any of its functions or to insure that the Project is maintained and used in a manner consistent with applicable law and this Declaration.

(i) Meetings. The authority to establish procedures for the conduct of its meetings, including but not limited to the power to decide what portion of the meeting shall be open or closed to Owners or Residents not on the Board, to retire to executive session, to regulate record keeping, and to allow, control or prohibit the electronic reproduction (video or audio) of Board meetings.

(j) Delegation of Authority. The power and authority to delegate its responsibilities over the management and control of the Common Areas and regulation of the Project to professional management company or manager, an experienced on-site manager, an independent contractor, through service contracts, or any combination thereof, reserving the right, power and authority, however, to control and oversee the administration thereof.

(k) Sewer and Water Laterals. Pay sewer bills and/or water bills in the event such services are not otherwise billed directly to the Owners from the service provider.

(l) Alternate Energy Resource Rules and Regulations. Adopt rules and regulations for allowing or disallowing and/or managing alternate energy resources, including by way of illustration but not limitation design guidelines regarding the location, installation and maintenance of solar panels, geothermal products, turbines, and so forth.

(m) All other Acts. The power and authority to perform any and all other acts, and to enter into any other transactions which may be reasonably necessary for the Board to perform its functions on behalf of the Owners.

13. Delegation of Management Responsibilities. The Board may delegate some of its management responsibilities to a professional management company, an experienced on-site manager, an independent contractor, through service contracts, or any combination thereof. The Manager may be an employee or an independent contractor. The termination provision of any such contract must not require a termination penalty or any advance notice of any more than thirty (30) days, and no such contract or agreement shall be for a term greater than one (1) year. The Board may also employ general laborers, grounds crew, maintenance, bookkeeping, administrative and clerical

personnel as necessary to perform its management responsibilities. Anything to the contrary notwithstanding, any management contract may be terminated for cause on thirty (30) days notice.

14. Owners Meetings. The Association shall meet at least annually at a time and place set by the Board.

15. Lists of Unit Owners, Eligible Mortgagees, and Eligible Insurers or Guarantors. The Board shall maintain up-to-date records showing: (a) the name of each person who is an Owner, the address of such person, and the Unit which is owned by him; (b) the name and address of each Resident; (c) the name of each person or entity who is an Eligible Mortgagee, the address of such person or entity, and the Unit which is encumbered by the Mortgage held by such person or entity; and (d) the name of each person or entity who is an Eligible Insurer or Guarantor, the address of such person or entity, and the Unit which is encumbered by the Mortgage insured or guaranteed by such person or entity. In the event of any transfer of a fee or undivided fee interest in a Unit, either the transferor or transferee shall furnish the Board with written evidence verifying that the transfer has occurred, that the Deed or other instrument accomplishing the transfer is of record in the office of the County Recorder of Utah County, Utah, and that the transferee has received a copy of the Declaration and By-Laws then in force. The Board may for all purposes act and rely on the information concerning Unit ownership in its records or, at its option, the records of the county recorder. The address of any Owner shall be deemed to be the address of the Unit owned by such person unless the Board is otherwise advised in writing.

16. Assumption of Risk. The Association may, but shall not be obligated to, sponsor certain activities or provide facilities designed to promote the health, safety, and welfare of Owners and Residents; there are Common Areas and Facilities and recreational amenities in the Project; in, near, or about the Project there are utility lines or utility substations; there are also improvements of a less significant nature. Notwithstanding anything contained herein or in any of the Project Documents, neither the Association, Board, Members of the Board, Officers of the Association, Manager, nor the Declarant shall be liable or legally responsible for, or in any manner a guarantor or insurer of the health, safety or welfare of any Owner or Resident of any Unit or his family members, tenants, guests, or invitees while at the Project, or for any property of any such Persons. Each such Person by accepting a deed or other document of conveyance to a Unit or coming onto the Property hereby assumes all risks associated with the use and enjoyment of the Project, including negligent acts. No provision of the Project Documents shall be interpreted as creating a duty of the Association, Board, Members of the Board, Officers of the Association, Manager, or the Declarant to protect or further the health, safety, or welfare of any Person(s), even if the funds of the Association are used for any such purpose. Each Owner by virtue of his acceptance of title to his Unit and each other Person having an interest in or lien upon, or making any use of, any portion of the Project (by virtue of accepting such interest or lien or making such use) shall be bound by this Section and shall be deemed to have waived any and all rights, claims, demands, and causes of action against the Association, Board, Members of the Board, Officers of the Association, Manager, and the Declarant, and their employees, agents, contractors, subcontractors, successors, and assigns from or connected with the foregoing items.

17. Recycling Programs. The Board may establish a recycling program and recycling center within the Project, and in such event all Owners and Residents of Units shall support such program by recycling, to the extent reasonably practical, all materials which the Association's recycling program or center is designed to accommodate. The Association may, but shall have no obligation to, purchase recyclable materials in order to encourage participation, and any income received by the Association as a result of such recycling efforts shall be used to reduce Common Expenses.

18. Provision of Services. The Association may provide services and facilities for the Members of the Association and their guests, lessees and invitees. The Association shall be authorized to enter into contracts or other similar agreements with other entities, including Declarant, to provide such services and facilities. The costs of services and facilities provided by the Association may be funded by the Association as a Common Expense. In addition, the Board shall be authorized to charge additional use and consumption fees for services and facilities. By way of example, some services and facilities which may be provided include snow removal, landscape maintenance, pest control service, cable television service, security, caretaker, fire protection, utilities, and similar services and facilities. The Board shall be permitted to modify or cancel existing services or facilities, if any, or to provide additional services and facilities. Nothing contained herein shall be relied upon as a representation as to what services and facilities, if any, will be provided by the Association. Project water charges, sewer charges and storm water fees shall be paid as a Common Expense in the event such services are not otherwise billed directly to the Owners from the service provider.

19. View Impairment and Adjacent Development. Neither the Declarant nor the Association guarantees or represents that any view over and across any property, including any Unit, from adjacent Building will be preserved without impairment. Neither the Declarant nor the Association shall have the obligation to prune or thin trees or other landscaping except as set forth herein. Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed. The Association and each Owner hereby acknowledge that plans for the undeveloped real property adjacent to or nearby the Project may currently include development as mixed-use and commercial parcels; different uses may be constructed at different times; Units within the Project may be located near other uses when such adjacent or nearby real property is developed, including retail, civic and office property and apartments, townhouses and condominiums; certain traits of each Unit and the Project may change over time depending on adjacent or nearby uses, such as the view, shade, noise levels, perceived privacy and amount of traffic. The Association and each Owner agree not to challenge or oppose such adjacent or nearby uses with the Association, the City of Lehi, the County of Utah, State of Utah, or any other relevant governing body.

20. Relationship with Tax-Exempt Organizations. The Association may create, enter into agreements or contracts with, grant exclusive and/or non-exclusive easements over the Common Area to, or transfer portions of the Common Area to non-profit, tax-exempt organizations for the benefit of the Project, the Association, its Members and residents. The Association may contribute money, real or personal property, or services to any such entity. Any such contribution shall be a Common Expense of the Association and shall be included as a line item in the Association's annual

budget. For the purposes of this Section, a "tax-exempt organization" shall mean an entity which is exempt from federal income taxes under the Internal Revenue Code, as may be amended from time to time.

21. Relationship with Adjacent Projects. Adjacent to or in the vicinity of the Project are projects which have been or, in the future, may be developed as independent commercial or residential areas, or combinations thereof (including, but not limited to, rental apartments, retail or other business areas). The Declarant or the Association may enter into an agreement to share costs and facilities with all or any of the owners of such adjacent or nearby commercial and/or residential areas which allocates access, use of Common Area, maintenance responsibilities, expenses, and other matters between the Association and such property owners. Unless annexed in the manner set forth in this Declaration, the owners of real property adjacent to or nearby the Project shall not be entitled to vote on Association matters, and shall not be subject to assessments or other conditions or restrictions set forth in this Declaration.

22. The Maintenance Responsibility of the Association. Subject to the rights and obligations of the Master Association which, in the event of a dispute, shall have priority, the Association shall maintain, replace, and keep in a state of good repair the following items (collectively "Area of Common Responsibility):

- (a) all Common Area;
- (b) all landscaping, trees, bushes, shrubs, planting beds, flower beds, grass and other plant life in the Common Area and public utility easements;
- (c) all common water service and drainage facilities, including all water features;
- (d) all common arterial sidewalks and walkways;
- (e) all walls and fences which serve as common walls or fences for the Project or which separate any Unit from Common Area, whether or not located on a Unit;
- (f) all landscaping and irrigation systems in the Common Area;
- (g) all common signage and Project entry monuments;
- (h) all streets and rights-of-way, and street lights within the Project (including any streets dedicated to the public if a majority of the Eligible Votes of the Owners approves such maintenance);
- (i) all roofs and exterior surfaces;
- (j) all foundations, columns, girders, beams, supports, and main walls;
- (k) all driveways, entries, landings, patios, balconies, and decks;

(l) all parking areas within the Common Area, excluding the enclosed interior private garage elements of the detached garages;

(m) all installations of common utility services, such as power, gas, sewer and water, including any such service lines running through the Buildings;

(n) all public Park Strips dedicated to the City located adjacent to Neighborhood, including by way of illustration but not limitation the grass, planting beds, flower beds, bushes, shrubs and trees;

(o) The Association shall pay the pressurized irrigation bill to the City; and

(p) any other item designated as a common responsibility or responsibility of the Association herein.

23. The Maintenance Responsibility of the Owners. Each Owner shall maintain, repair and replace his Unit and all other landscaping and physical improvements to his Unit not part of the Common Area of Responsibility (the "Area of Personal Responsibility"). This obligation includes by way of illustration but not limitation all glass, windows, window units, doors, and door units, subject only to the prior written consent of the Board who is obligated to maintain the integrity of the original architectural design, uniformity of appearance, and quality of construction. Each Owner or Resident shall keep his patio, balcony, deck, driveway, any assigned Limited Common Area, Restricted Limited Common Space (even if the assignment is temporary), and parking and storage spaces broom clean and free of debris in accordance with the Rules and Regulations adopted by the Board. An Owner may construct personal landscaping outside the boundaries of the Unit and within the boundaries of the Limited Common Area appurtenant to the Unit, if any, subject to advance written approval of the Board. The Board may adopt Rules and Regulations concerning the use of the Limited Common Areas and Restricted Limited Common Space.

24. Garbage Removal and Snow Removal. The Association shall arrange for garbage pick up and removal. Unit Owners shall place their garbage in suitable plastic bags, sacks or containers and deposit them immediately into the designated dumpsters or garbage receptacles. The Association shall arrange for snow removal from all common arterial sidewalks and walkways that lie within the Association's Area of Common Responsibility. The Association shall have the right, but not the obligation, to arrange for snow removal from any Limited Common Area. Each Owner or Resident is solely responsible for snow removal from his patio, balcony, deck, driveway, walkways, and parking areas appurtenant to his Unit.

25. Standard of Care - Generally. The Property shall be maintained in a usable, clean, functional, safe, healthy, sanitary, attractive, and good condition, consistent with the Community Wide Standard. If a dispute arises between a Unit Owner or a Resident as to the condition of a Unit, the decision of the Board shall be final and conclusive.

26. Standard of Care - Landscaping. All landscaping, if any, permitted by the Board in

the Limited Common Areas shall be maintained and cared for in a manner consistent with the Community Wide Standard and the quality of design and construction originally established by Declarant. Specific guidelines and restrictions on landscaping may be established by the Board from time to time. All landscaping shall be maintained in a neat and orderly condition. Any weeds or diseased or dead lawn, trees, ground cover or shrubbery shall be removed and replaced. All lawn areas shall be neatly mowed and trees, shrubs and bushes shall be properly pruned and trimmed. In short, all landscaping shall be tasteful, so as not to affect adversely the value or use of any other Unit, or to detract from the uniform design and appearance of the Project.

27. Neglect. If the Board determines that any Owner has failed or refused to discharge properly his obligation with regard to the maintenance, repair, or replacement of items for which he is responsible hereunder; or that the need for maintenance, repair, or replacement of the Common Area is caused through the willful or negligent act of any Owner, his family, guests, lessees, or invitees, and it is not covered or paid by insurance, in whole or in part, then the Association may, but is not obligated to, provide such maintenance, repair or replacement at the Owner's sole cost and expense, subject to the following:

(a) Notice of Intent to Repair. Except in an emergency situation, the Association shall give the Owner written notice of the Association's intent to provide necessary maintenance, repair, or replacement at Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Board. The Owner shall have ten (10) days after receipt of notice within which to complete the maintenance, replacement or repair, or if the maintenance, replacement or repair is not capable of completion within such time period, to commence the maintenance, replacement or repair within ten (10) days.

(b) Emergency Situation. If the Board determines that an emergency exists, then notice and the opportunity to cure the default is not necessary.

(c) Optional Repairs. The Association may, but is not obligated to, provide any such maintenance, repair, or replacement in the manner described above.

(d) Costs and Expenses. Costs incurred by the Association in the performance of an item included in the Area of Personal Responsibility shall be added to and become a part of the Assessment to which such Owner and Unit is subject, and shall be secured by a lien against his Unit regardless of whether a notice of lien is filed.

28. Changes to Areas of Personal or Common Responsibility. The Board may, in its sole discretion, add items to or subtract items from the Areas of Personal or Common Responsibility upon at least thirty (30) days prior written notice to the Unit Owners.

29. Alterations to the Common Area. Anything to the contrary notwithstanding and until the termination of the Period of Declarant Control, the Declarant may make changes to the Common Area without the consent of either the Association or the Board. No Owner or Resident may at any time modify the drainage patterns or systems, landscaping, or make any structural alterations, modifications, changes or improvements to the Building, Limited Common Area, Restricted Limited

Common Space, or other Common Area or Facilities, including but not limited to the construction or installation of any additions, and the extension or enclosure of any existing structures (e.g., fencing, decks, patios, walkways or sheds, etc.) not shown on the approved plans and specifications, without the prior written consent of the Board.

30. Common Expenses. Each Owner shall pay his Assessments subject to and in accordance with the procedures set forth below.

(a) Declarant. During the Period of Declarant Control, the following shall apply: (1) The Declarant shall pay no Assessment unless a Unit owned by Declarant is occupied for a residence on a permanent or part-time basis, provided that Declarant or its assigns may but are not obligated to subsidize the Association until control of the Association passes to the Owners; (2) Subsidization shall be defined as the payment of the reasonable cash needs of the Association for ordinary and necessary maintenance expenses and a reasonable contribution to reserves. The Association shall reimburse the Declarant for the subsidies. The Declarant shall not be subject to Regular, Special, Corrective or Individual Assessments.

(b) Purpose of Common Area Expenses. The Assessments provided for herein shall be used for the general purpose of operating the Project, promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners and Residents, including the maintenance of any real and personal property owned by the Association, and regulating the Community, all as may be more specifically authorized from time to time by the Board.

(c) Budget. At least thirty (30) days prior to the Annual Homeowners Meeting, the Board shall prepare and deliver to the Owners a proposed Budget which:

(1) Itemization. Shall set forth an itemization of the anticipated Common Expenses (including that portion earmarked for the reserve account(s)) for the twelve (12) month calendar year, commencing with the following January 1.

(2) Basis. Shall be based upon advance estimates of cash requirements by the Board to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common Areas and regulation of the Association, which estimate shall include but is not limited to expenses of management, grounds maintenance, taxes and special assessments, premiums for all insurance which the Board is required or permitted to maintain, common lighting and heating, common water charges, common sewer charges, sewer maintenance costs, carpeting, painting, repairs and maintenance of the Common Areas and replacement of those elements of the Common Areas that must be replaced on a periodic basis, wages for Board employees, legal and accounting fees, any deficit remaining from a previous period, the creation of a reasonable contingency reserve, surplus or sinking fund, Capital Improvement reserve, and other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under and by reason of this Declaration. Until the Project is completed, and all Phases are added, this estimate may need to be adjusted periodically as each new Phase is completed.

(d) Apportionment. The common profits, losses and voting rights of the Project

shall be distributed among, and the Common Expenses shall be charged to, the Unit Owners equally and uniformly.

(e) Approval of Budget and Assessments. The proposed Budget and the Assessments shall become effective unless disapproved at the Annual Meeting by a vote of at least a majority of the Eligible Votes of the Owners. Notwithstanding the foregoing, however, if the membership disapproves the proposed budget and Assessments or the Board fails for any reason to establish the Budget and Assessments for the succeeding year, then and until such time as a new budget and new Assessment schedule shall have been established, the Budget and the Assessments in affect for the then current year shall continue for the succeeding year.

(f) Payment of Assessments. The Board has the sole authority and discretion to determine how and when the annual Assessments are paid.

(g) Personal Obligation of Owner. Owners are liable to pay all Assessments assessed and Additional Charges; provided, however, no first Mortgagee or beneficiary under a first deed of trust (but not the Seller under a uniform real estate contract, land sales contract, or other similar instrument), who obtains title to a Unit pursuant to the remedies provided in the Mortgage or trust deed shall be liable for unpaid Assessments which accrued prior to the acquisition of title. For purposes of this Section, the term "Owner" shall mean and refer jointly and severally to: (1) the Owner of both the legal and equitable interest in any Unit; (2) the owner of record in the offices of the County Recorder of Utah County, Utah; and (3) both the Buyer and Seller under any executory sales contract or other similar instrument.

(h) Equitable Changes. If the aggregate of all monthly payments on all of the Units is too large or too small as a result of unanticipated income or expenses, the Board may from time to time effect an equitable change in the amount of said payments, but, without the prior approval of a majority of the Eligible Votes of the Owners, not greater than fifteen (15%) percent of the Assessment in any calendar year. Owners shall be given at least thirty (30) days written notice of any changes.

(i) Reserve Analysis, Study and Fund. The Association shall comply with the statutory requirements for a Reserve Analysis/Study and Fund.

(j) Statement of Assessments Due. Upon written request, the Board shall furnish to any Owner a statement of Assessments due, if any, on his Unit. Failure to provide the certificate within ten (10) days after a written request is received by the Secretary shall be deemed conclusive evidence that all Assessments are paid current. The Association may require the advance payment of a processing charge not to exceed \$10.00 for the issuance of such certificate.

(k) Superiority of Assessments. All Assessments and liens created to secure the obligation to pay Assessments are superior to any homestead exemptions to which an Owner may be entitled which, insofar as it adversely affects the Association's lien securing unpaid Assessments, each Owner, by accepting a deed or other document of conveyance to a Unit, hereby subordinates and waives.

31. Annual Assessments.

(a) Each Owner hereby covenants and shall pay his share of the Common Expenses. Each Owner hereby covenants and shall pay his Assessments; provided, however, the Declarant for each Declarant owned Unit within the Property is not obligated to pay Assessments. The obligation to make said payments is independent of the MHOA's and Association's duty to maintain.

(b) The total annual Assessments against all Units shall be based upon advance estimates of cash requirements by the Board of Directors to provide for the payment of each Owner's share of the Common Expenses and all estimated expenses growing out of or connected with the maintenance and operation of the Common Area and Facilities or furnishings, among other things, expenses of management; grounds maintenance; pressurized irrigation bill to the City, taxes and Special Assessments levied by governmental authorities until the Units are separately assessed as provided herein; premiums for all insurance which the Board of Directors is required or permitted to maintain; common lighting and heating; water charges; trash collection; sewer service charges; repairs and maintenance; wages for Board of Directors employees; legal and accounting fees; any deficit remaining from a previous period; the creation of a reasonable contingency reserve, surplus and/or sinking fund; and any other expenses and liabilities which may be incurred by the Board of Directors for the benefit of the Owners under or by reason of this Declaration.

(c) Each Unit shall be separately metered for gas and electricity. Costs of gas and electric service shall be paid by the individual Owners. Water and sewer for individual Units shall be separately metered and costs shall be paid by the individual Owners. Water, garbage, and electricity for Common Area and Facilities may be metered separately or in combination with individual Units.

(d) Expenses attributable to the Common Areas and Facilities as a whole shall be apportioned among all Units equally. The Declarant is not obligated to pay Assessments.

(e) Annual Assessments shall be made on a calendar year basis. The Board of Directors shall give each Owner written notice of each annual Assessment with respect to a Unit not less than thirty (30) days nor more than sixty (60) days prior to the beginning of the next calendar year. The first annual Assessment shall be for the balance of the calendar year remaining after the date fixed by the Board of Directors. Each annual Assessment shall be due and payable in monthly installments on the first day of each and every month and no separate notices of such monthly installment shall be required. Each monthly Assessment, if not paid within thirty (30) days after such date, shall bear interest at the rate of eighteen (18%) percent per annum from the date it becomes due and payable. The Board of Directors may also charge a reasonable late fee.

(f) All sums assessed to any Unit pursuant to this section, together with interest thereon as provided herein shall be secured by a lien on such Unit in favor of the Association. Such lien shall have such priorities as established by law.

(g) To establish a lien for any unpaid Assessment, the Board of Directors shall prepare or have prepared a written notice of lien as set forth by statute. No notice of lien shall be recorded until there is a delinquency in payment of the Assessment. Such lien may be enforced by judicial or nonjudicial foreclosure as provided by law. The lien shall also secure, and the Owner shall also be required to pay to the Association any Assessments against the Unit which shall become due during the period of foreclosure sale or other legal sale. The Board of Directors may bid on the Unit at foreclosure or other sale and may acquire, hold, convey, lease, rent, encumber, use and otherwise deal with the same as the Owner thereof.

(h) A release of lien shall be executed and recorded in the office of the County Recorder of Utah County, Utah, upon payment of all sums secured by a lien which has been made the subject of a recorded notice of lien.

(i) An encumbrancer holding a lien on a Unit may pay, but shall not be required to pay, any amounts secured by the lien created by this Section, and upon such payment such encumbrancer shall be subrogated to all rights of the Board of Directors with respect to such lien, including priority.

(j) The Board of Directors shall report to any encumbrancer of a Unit any unpaid Assessments remaining unpaid for longer than ninety (90) days after the same shall have become due; provided however, that such encumbrancer first shall have furnished to the Board of Directors written notice of such encumbrance.

(k) The amount of any annual or Special Assessment against any Unit shall be the personal obligation of the Owner thereof to the Association. Suit to recover a judgment of such personal obligation shall be maintainable by the Board of Directors without foreclosing or waiving the lien securing the same. No Owner may void or diminish any personal obligation by waiver of the use and enjoyment of any of the Common Areas or by abandonment of a Unit.

(l) Upon payment of a reasonable fee not to exceed the statutory limit and upon written request of any Owner, or any Mortgagee, prospective Mortgagee or prospective purchaser of a Unit, the Board of Directors shall issue a written statement setting forth the amount of unpaid Assessments, if any, with respect to such Unit; the amount of the current yearly Assessment and the portion thereof which has theretofore been paid; and credit for advanced payments or prepaid items. Such statement shall be conclusive upon the Board of Directors in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with within ten (10) days, all unpaid Assessments which become due prior to the making of such request shall be subordinate to the lien of a Mortgagee which acquired its interest subsequent to requesting such statement. Where a prospective purchaser makes such a request, both the lien and unpaid Assessments and the personal obligations of the purchaser shall be released automatically if the statement is not furnished within ten (10) days, and that purchaser subsequently acquires the Unit.

(m) Subject to the provisions of subparagraph (m), a purchaser of a Unit shall be jointly and severally liable with the seller for all unpaid Assessments against the Unit up to the time of the conveyance, without prejudice to the purchaser's right to recover from the seller the

amount paid by the purchaser for such Assessments.

(n) The Board of Directors may elect to (a) terminate utilities and the right to use amenities for non-payment of Assessments and/or (b) collect rents directly from a renter if the Unit Owner who is renting the Unit fails to pay any Assessment for a period of more than sixty (60) days after it is due and payable,

(o) Anything to the contrary notwithstanding, any first mortgagee who obtains title to a Unit pursuant to the remedies in the mortgage or trust deed or through foreclosure will not be liable for more than six (6) months of the unpaid regularly budgeted Assessments, dues or charges accrued before acquisition of the title to the property by the mortgage, although the first mortgagee will also be liable for any reasonable attorneys fees or costs related to the collection of the unpaid dues. All other grantees who obtain title to a Unit in a voluntary conveyance or pursuant to the remedies in a mortgage or trust deed or through foreclosure shall be jointly and severally liable with the trustor or mortgagor for all unpaid Assessments, late fees, default interest and collection costs, including a reasonable attorneys fee, against the Unit for its share of the Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the trustor or mortgagor the amounts paid by the grantee.

32. Special Assessments. In addition to Annual Assessments, the Board of Directors may levy in any Assessment year a Special Assessment, payable over such a period as the Board of Directors may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Property or any part thereof, or for any other expense incurred or to be incurred as provided in this Declaration. This paragraph shall not be construed as an independent source of authority for the Board of Directors to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other paragraphs of this Declaration. Any amounts assessed pursuant hereto shall be assessed to the Owners in proportion to their respective undivided interest in Common Areas. Notice in writing of the amount of such Special Assessments and the time for their payment shall be given promptly to the Owners. Payment shall be due on the dates and in the manner provided in the notice. Any Special Assessment or part thereof shall bear interest at the rate of eighteen (18) percent per annum from the date it becomes due and payable if not paid within thirty (30) days after such date.

33. Individual Assessments. Individual Assessments shall be levied by the Board against a Unit and its Owner to reimburse the Association for: (a) administrative costs and expenses incurred by the Board in enforcing the Project Documents; (b) costs associated with the maintenance, repair or replacement of Common Area for which the Unit Owner is responsible; (c) any other charge, fee, fine, dues, expense, or cost designated as an Individual Assessment in the Project Documents or by the Board; and (d) attorneys' fees, interest, and other charges relating thereto as provided in this Declaration.

34. Collection of Assessments. The Owners must pay their Assessments in a timely manner. Time is of the essence. Payments are due in advance on the first of the month. Payments are considered late if received after the 10th day of the month in which they were due.

(a) Personal Obligation. Each Owner, by acceptance of a deed or as a party to any other type of conveyance, vests in the Association or its agents the right and power to bring all actions against him personally for the collection of the charges as a debt or to foreclose the lien in the same manner as mechanics liens, Mortgages, trust deeds or encumbrances may be foreclosed.

(b) No Waiver. No Owner may waive or otherwise exempt himself or herself from liability for the Assessments provided for herein, including but not limited to the non-use of Common Areas or the abandonment of his Unit.

(c) Duty to Pay Independent. No reduction or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay Assessments being a separate and independent covenant on the part of each Owner.

(d) Foreclosure of Lien as Mortgage or Trust Deed. The lien for nonpayment of Assessments may be enforced by sale or foreclosure of the Owner's interest therein by the Board. The sale or foreclosure shall be conducted in the same manner as foreclosures in deeds of trust or Mortgages or in any other manner permitted by law, including by way of illustration but not limitation a judicial and/or non-judicial sale. In any foreclosure or sale, the Owner shall pay the costs and expenses of such proceedings, including but not limited to the cost of a foreclosure report, reasonable attorney's fees, and a reasonable rental for the Unit during the pendency of the foreclosure action. The Association in the foreclosure action may require the appointment of a receiver to collect the rental without regard to the value of the Mortgage security. The Board may bid for the Unit at foreclosure or other sale and hold, lease, Mortgage, or convey the same.

(e) Trust Deed for Assessments. By acceptance of a deed for a Unit, each Owner as Trustor conveys and warrants to Trustee in trust for the Association, as Beneficiary, with power of sale, the Owner's Unit and appurtenant Limited Common Area, and all improvements thereon for the purpose of securing payment of all Assessments (including basis of collection) provided for in this Declaration. For purposes of this Section and Utah Code Ann. §§57-1-19, *et seq.*, as amended from time to time, the Trustee shall mean the attorney for the Association, and the Association may provide notice and disclosure of the Trustee by recording an "Appointment of Trustee" on the records of the local County Recorder. Each Owner hereby also grants to the Association and Trustee all powers and rights of non-judicial trust deed foreclosure provided for in Utah Code Ann. §§57-1-19, *et seq.*

(f) Discontinuance of Common Utility Service and Suspension of Common Facility Use. If an Owner fails or refuses to pay an Assessment when due, the Board may, after giving notice and an opportunity to be heard as provided for below, terminate an Owner's right;

- (1) to receive utility services paid as a Common Expense; and

- (2) to access and use of recreational facilities.

Before terminating utility services or right of access and use of recreational facilities, the Manager or Board shall give written notice to the Owner in the manner provided in the Bylaws. The notice shall inform the Owner (i) that utility service or right of access and use of recreational facilities will be terminated if payment of the Assessment is not received within thirty (30) days; (ii) of the amount of the Assessment due, including any interest or late payment fee; and (iii) of the right to request a hearing as provided for in this Section. An Owner who is given notice may request an informal hearing to dispute the Assessment by submitting a written request to the Board within fourteen (14) days after the date on which the Owner receives the notice. The hearing shall be conducted by the Board in accordance with the standards provided in the Bylaws. If a hearing is requested, utility services or right of access and use of recreational facilities may not be terminated until after the hearing has been conducted and a final decision has been entered. Upon payment of the Assessment due, including any interest or late payment fee, the Manager or Board shall immediately take action to reinstate the terminated utility services and right of access and use of recreational facilities.

35. Working Capital Fund. A Working Capital Fund shall be established by the Declarant. Each Unit's initial share of the Working Capital Fund shall be collected and transferred to the Board at the time of closing of the sale of each such Unit by Declarant and shall be equal to two (2) month's Assessment (the "Working Capital Payment"). Notwithstanding the foregoing, the contribution to the Working Capital Fund for each unsold Unit shall be paid to the Board at the time a certificate of permanent occupancy is issued and such Unit is first occupied for residential purposes. With respect to each Unit for which the Declarant pays the contribution to the Working Capital Fund, the Declarant may, at its election, be reimbursed for such contribution by the buyer of such Unit at the time of closing. Thereafter, each time a Unit is sold and conveyed, the Board shall collect a Working Capital Payment at the time of the closing of the transaction. The purpose of the Working Capital Fund is to insure that the Board will have cash available to satisfy unforeseen expenses or to acquire additional equipment or services necessary for the operation, control and regulation of the Project. Sums paid into the Working Capital Fund are not to be considered as advance payments or regular monthly payments of Common Expenses.

36. Reinvestment Fee. The Association may charge a reinvestment fee subject to any statutory limitations.

37. Future Lease Payments. If the Owner of a Unit who is leasing the Unit fails to pay an Assessment for more than sixty (60) days after the Assessment is due, the Board, upon compliance with this Section, may demand that the tenant pay to the Association all future lease payments due to the Owner, beginning with the next monthly or other periodic payment, until the amount due to the Association is paid. The Manager or Board shall give the Owner written notice of its intent to demand full payment from the tenant under this Section. The notice shall (i) provide notice to the tenant that full payment of the remaining lease payments will begin with the next monthly or other periodic payment unless the Assessment is received within the time period provided in the Declaration, Bylaws, or Association Rules and Regulations; (ii) state the amount of the Assessment

due, including any interest or late payment fee; (iii) state that any costs of collection, not to exceed One Hundred Fifty Dollars (\$150.00), and other Assessments that become due may be added to the total amount due; and (iv) provide the requirements and rights described in this Section. If the Owner fails to pay the Assessment due by the date specified in the notice, the Manager or Board may deliver written notice to the tenant that demands future payments due to the Owner be paid to the Association pursuant to this Section. The Manager or Board shall mail a copy of the notice to the Owner. The notice provided to the tenant under this Section shall state: (i) that due to the Owner's failure to pay the Assessment within the time period allowed, the Owner has been notified of the intent of the Board to collect all lease payments due to the Owner; (ii) that until notification by the Association that the Assessment due, including any interest, collection cost, or late payment fee, has been paid, the tenant shall pay to the Association all future lease payments due to the Owner; and (iii) that payment by the tenant to the Association in compliance with this Section will not constitute a default under the terms of the lease agreement. If a tenant makes payments in compliance with this Section, the Owner may not initiate an action against the tenant. All funds paid to the Association pursuant to this Section shall be (i) deposited in a separate account; and (ii) disbursed to the Association until the Assessment due, together with any cost of administration which may not exceed any statutory limit, if paid in full. Any remaining balance shall be paid to the Owner within five (5) business days after payment in full to the Association. Within five (5) business days after payment in full of the Assessment, including any interest or late payment fee, the Manager or Board shall mail a copy of such notification to the Owner.

38. Liability of Board. The Association shall indemnify every officer and member of the Board against any and all expenses, including but not limited to attorney's fees reasonably incurred by or imposed upon any officer or member of the Board in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board) to which he may be a party by reason of being or having been an officer or member of the Board. The officers and members of the Board shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and members of the Board shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or members of the Board may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and member of the Board free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall be exclusive of any other rights to which any officer or member of the Board, or former officer or member of the Board, may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officer's and director's insurance coverage to fund this obligation, if such insurance is reasonably available.

39. Insurance.

(a) Generally. The Association must maintain the following insurance coverage, at least to the extent it is reasonably available:

(1) Property insurance on ALL structures, including ALL Common Area and Facilities, and Units; and

(2) Public liability insurance.

(3) If any provision of this Section is held to be (a) inconsistent, incongruent or in conflict with the insurance requirements as set forth in the Act or (b) illegal, invalid, or unenforceable under any present or future law, then that provision will be fully severable. This Section will be construed and enforced as if the (a) inconsistent, incongruent or in conflict with the insurance requirements as set forth in the Act or (b) illegal, invalid, or unenforceable provision had never comprised a part hereof, and the remaining provisions of this Section will remain in full force and effect and will not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Section. Furthermore, in lieu of each such (a) inconsistent, incongruent or in conflict with the insurance requirements as set forth in the Act or (b) illegal, invalid, or unenforceable provision, there will be added automatically, as a part of this Section, a provision as similar in terms to such (a) inconsistent, incongruent or in conflict with the insurance requirements as set forth in the Act or (b) illegal, invalid, or unenforceable provision as may be possible and be legal, valid and enforceable.

(b) Denial or Cancellation of Coverage. If property or liability insurance is not reasonably available, then fair and reasonable notice must be given to the owners within seven (7) days.

(c) Additional Coverage. The Association may purchase additional or greater coverage.¹

(d). Property Insurance. The Property Insurance coverage must include:

(1) All common area; and

(2) The Unit, including ALL fixtures, floor coverings, wall coverings, cabinets, heating and plumbing fixtures, windows, any (other) item permanently attached.²

(3) The Property Insurance must be for at least 100% of the FULL replacement cost of the item at the time insurance is purchased and at the renewal date.

(4) The Association is not obligated to insure detached Units; that is, a Unit if the Unit is NOT physically attached to another Unit or to an above-ground structure that is part of the Common Area.

(5) When a claim is covered by the Association's Property Insurance AND the Unit Owner's Property Insurance, the Association's Property Insurance is considered PRIMARY.

¹ Such as Earthquake Insurance, fidelity bond (e.g., a sum equal to 3 months' assessments and all of the money in reserve or contingency funds), directors and officers insurance, coverage for defamation, and coverage for defense of housing discrimination claim, etc..

² The tongue-in-cheek rule of thumb is can it be removed in 10 minutes with a screw driver and pliers without damaging the structure.

The Unit Owner's insurance may apply to the deductible.

(6) If a Unit Owner makes a claim on the Association's Property Insurance policy, then the Owner is responsible for the deductible.

(7) If two (2) or more Unit Owner's make a claim arising out of a single event, then each Owner is responsible for payment of his or her portion of the deductible based upon his or her percentage of the loss .

(8) If a Unit Owner fails to pay his or her share of the loss/deductible, then the Association may assess an assessment against the Owner/Unit, and file a lien against the Unit to secure payment.

(9) For each such claim the Association must set aside the amount of the deductible or \$10,000.

(10) Also, the Association must give notice to ALL Unit Owners of (a) the amount of the deductible and (b) their obligation to pay the Association's deductible if a claim is filed, and (c) provide follow-up notice of any change to the amount of the deductible.

(11) THE ASSOCIATION IS NOT OBLIGATED TO SUBMIT A CLAIM TO ITS PROPERTY INSURANCE CARRIER IF THE GOVERNING BOARD DETERMINES THAT IN ITS REASONABLE BUSINESS JUDGMENT THE AMOUNT OF THE CLAIM IS UNLIKELY TO EXCEED THE INSURANCE DEDUCTIBLE AND, IF SO, THE UNIT OWNER'S INSURANCE POLICY PROVIDES THE PRIMARY COVERAGE, OR IF THE UNIT OWNER IS UNINSURED, THEN HE OR SHE WILL BE LIABLE FOR THE LOSS UP TO THE AMOUNT OF THE DEDUCTIBLE.

(12) When the Association receives insurance proceeds from its Property Insurance carrier, the association receives the insurance proceeds in trust for the Owner(s) and the Association.

(13) If a claim is made by an Owner for a loss to his Unit and the Board determines that a covered loss is likely not to exceed the deductible, then until it becomes apparent the loss exceeds the amount of the deductible and the claim must be submitted to the Association's insurer, the Unit Owner's policy shall be considered the primary policy for coverage.

(e) Liability Insurance.

(1) The Association must obtain public liability insurance.

(2) The Association may purchase more public liability insurance than is required by the governing documents.

(3) Each Unit Owner is considered an "insured" under the public liability

policy purchased by the Association.

(f) Worker's Compensation Insurance.

(g) Fidelity Bond. The Association shall obtain insurance or a fidelity bond covering an employee dishonesty is an amount equal to three (3) months of HOA fee income plus the amount of funds held in the reserve account.

40. Destruction, Condemnation, and Obsolescence. The following provisions shall apply with respect to the destruction, condemnation, or obsolescence of the Project.

(a) Definitions. Each of the following terms shall have the meaning indicated:

(1) "Substantial Destruction" shall exist whenever, as a result of any damage or destruction to the Project or any part thereof, the excess of the estimated cost of Restoration over the funds available is twenty five percent (25%) percent or more of the estimated Restored Value of the Project.

(2) "Partial Destruction" shall mean any other damage or destruction to the Project or any part thereof which does not constitute Substantial Destruction.

(3) "Substantial Condemnation" shall exist whenever a complete taking of the Project or a taking of part of the Project has occurred under eminent domain or by grant or conveyance in lieu of condemnation, and the excess of the estimated cost of Restoration over the funds available is twenty five (25%) percent or more of the estimated Restored Value of the Project.

(4) "Partial Condemnation" shall mean any other taking by eminent domain or grant or conveyance in lieu thereof which does not constitute Substantial Condemnation.

(5) "Substantial Obsolescence" shall exist whenever the Project or any part thereof has reached such a state of obsolescence or disrepair that the excess of the estimated cost of Restoration over the funds available is twenty five percent (25%) percent or more of the estimated Restored Value of the Project.

(6) "Partial Obsolescence" shall mean any state of obsolescence or disrepair which does not constitute Substantial Obsolescence.

(7) "Restored Value" shall mean the fair market value of the Project after Restoration as determined by an MAI or other qualified appraisal.

(8) "Estimated Cost of Restoration" shall mean the estimated costs of restoring the Project to its former condition.

(9) "Available Funds" shall mean any proceeds of insurance, condemnation awards, payments in lieu of condemnation, and any uncommitted funds of the Board

or Association. Available Funds shall not include that portion of insurance proceeds legally required to be paid to any party other than the Association, including a Mortgagee, or that portion of any condemnation award or payment in lieu of condemnation payable to the Owner or Mortgagee for the condemnation or taking of the Unit in which they are interested.

(b) Determination by Board. Upon the occurrence of any damage or destruction to the Project or any part thereof, or upon a complete or partial taking of the Project under eminent domain or by grant or conveyance in lieu thereof, the Board shall make a determination as to whether the excess of Estimated Cost of Restoration over Available Funds is twenty-five percent (25%) or more of the estimated Restored Value of the Project. In addition, the Board shall, from time to time, review the condition of the Project to determine whether Substantial Obsolescence exists. In making such determinations the Board may retain and rely upon one or more qualified appraisers or other professionals.

(c) Restoration of the Project. Restoration of the Project shall be undertaken by the Board promptly without a vote of the Owners in the event of Partial Destruction, Partial Condemnation, or Partial Obsolescence and shall also be undertaken in the event of Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence unless the failure to make Restoration is consented to by Owners collectively holding at least sixty-seven (67%) percent of the Project's Eligible Votes of the Owners and is further consented to by at least fifty-one (51%) percent of the Eligible Mortgagees.

(d) Notices of Destruction or Obsolescence. Within thirty (30) days after the Board has determined that Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence exists, it shall send to each Owner and Eligible Mortgagee a written description of the destruction, condemnation, or state of obsolescence involved, shall take appropriate steps to ascertain the preferences of the Eligible Mortgagees concerning Restoration, and shall, with or without a meeting of the Owners (but in any event in accordance with the applicable provisions of this Declaration), take appropriate steps to determine the preferences of the Owners regarding Restoration.

(e) Excess Insurance. In the event insurance proceeds, condemnation awards, or payments in lieu of condemnation actually received by the Board or Association exceed the cost of Restoration when Restoration is undertaken, the excess shall be paid and distributed to the Owners in proportion to their respective undivided interests in the Common Areas. Payment to any Owner whose Unit is the subject of a Mortgage shall be made jointly to such Owner and the interested Mortgagee.

(f) Inadequate Insurance. If the cost of Restoration exceeds Available Funds, the Board may elect to make a Special Assessment in accordance with this Declaration to pay for the deficiency.

(g) Reallocation in Event of Partial Restoration. In the event that all or any portion of one or more Units will not be the subject of Restoration (even though the Project will continue as a condominium development) or is taken in a condemnation proceeding or pursuant to

any agreement in lieu thereof, the undivided Ownership interest in the Common Areas and Facilities shall be immediately reallocated to the remaining Units.

(h) Sale of Project. Unless Restoration is accomplished as set forth above, the Project shall be sold in the event of Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence. In the event of such sale, ownership under this Declaration and the Plat Map shall terminate and the proceeds of sale and any Available Funds shall be distributed by the Board to the Owners in proportion to their respective undivided interests in the Common Areas. Payment to any Owner whose Unit is then the subject of a Mortgage shall be made jointly to such Owner and the interested Mortgagee.

(i) Authority of Board to Represent Owners in Condemnation or to Restore or Sell. The Board, as attorney-in-fact for each Owner, shall represent all of the Owners and the Association in any condemnation proceeding or in negotiations, settlements, and agreements with the condemning authority for the acquisition of all or any part of the Common Areas and Facilities.

(j) Settlement Proceeds. The award in any condemnation proceeding and the proceeds of any settlement related thereto shall be payable to the Association for the use and benefit of the Owners and their Mortgagees as their interests may appear.

(k) Restoration Power. The Board, as attorney-in-fact for each Owner, shall have and is hereby granted full power and authority to restore or to sell the Project and each Unit therein whenever Restoration or sale, as the case may be, is undertaken as hereinabove provided. Such authority shall include the right and power to enter into any contracts, deeds or other instruments which may be necessary or appropriate for Restoration or sale, as the case may be.

(l) Termination of Legal Status. Any action to terminate the legal status of the Project after Substantial Destruction or Condemnation occurs shall be agreed to by Unit Owners who represent at least sixty-seven (67%) percent of the Eligible Votes of the Owners and by at least fifty-one (51%) percent of the Eligible Mortgagees. The termination of the legal status of the Project for reasons other than Substantial Destruction or Condemnation of the property shall be agreed to by at least sixty-seven (67%) percent of the Eligible Mortgagees. However, implied approval may be assumed when an Eligible Mortgagee fails to submit a response to any written proposal for an amendment within sixty (60) days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested.

41. Consent in Lieu of Vote. In any case in which this Declaration requires the vote of an Owner for authorization or approval of an act or a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Units which collectively hold the required percentages, subject to the following conditions:

(a) Sixty-Day Limit. All necessary consents must be obtained prior to the expiration of sixty (60) days from the time the first written consent is obtained; and

(b) Change In Ownership. Any change in Ownership of a Unit which occurs after

consent has been obtained from the Owner having an interest therein shall not be considered or taken into account for any purpose; and

(c) Compliance with Statutes. Any such consent in lieu must also comply with the requirements of the Utah Revised Nonprofit Corporation Act (the "URNPCA"), as amended from time to time. In the event of any conflict between the provisions of this Declaration, the Act and the URNPCA, the latter shall in all respects govern and control.

42. Mortgagee Protection. Nothing herein contained, and no violation of these covenants, conditions and restrictions, shall invalidate or impair the lien of any Mortgage or deed of trust, given in good faith and for value. Mortgagees are excluded from any leasing or rental restrictions when obtaining or after obtaining a Unit in foreclosure. The lien or claim against a Unit for unpaid Assessments levied by the Board or by the Association pursuant to this Declaration shall be subordinate to any Mortgage recorded on or before the date such Assessments become due. In addition:

(a) Effects of Voluntary and Involuntary Sale. The lien or claim against a Unit for such unpaid Assessments shall not be affected by any sale or transfer of such Unit, except that a sale or transfer pursuant to a foreclosure of the Mortgage affecting such Unit or the exercise of a power of sale available thereunder shall extinguish any debt payable prior to such sale or transfer. Nevertheless, any such unpaid Assessments which are extinguished in accordance with the foreclosure or power of sale shall not relieve the purchaser or transferee of such Unit from liability for the lien of any Assessments becoming due thereafter.

(b) Books and Records Available for Inspection. The Board or the Association shall make available to the Owners, to Mortgagees, and lenders, and to holders, insurers, or guarantors of any Mortgage current copies of the Declaration, Bylaws, and administrative Rules and Regulations concerning the Project, as well as the books, records, and financial statements of the Association. The term "Available," as used in the Paragraph, shall mean available for reasonable inspection upon request during normal business hours or under other reasonable circumstances. The Association shall have the right to recover its photocopying and service charges incurred in making the inspection and photocopying available.

(c) Right to Financial Statement. The holder, insurer or guarantor of any Mortgage shall be entitled, upon written request, to a financial statement for the immediately preceding fiscal year. Any financial statement requested pursuant hereto shall be furnished to the requesting party within a reasonable time following such request.

(d) Management Contracts. Any agreement for management of the Project and any contract for goods or services or any lease which is entered into by the Board of Directors shall provide or be deemed to provide that: (1) Either party may terminate the contract with cause upon at least thirty (30) days prior written notice to the other party; and (2) No contract may be for an initial term greater than one (1) year; and (3) No management contract, lease of recreational areas or facilities, or any other contract or lease designed to benefit Declarant which was executed by or on behalf of the Association shall be binding after the Period of Declarant Control unless then renewed

or ratified by the consent of a majority of the Eligible Votes of the Owners.

(e) Eligible Mortgagee Designation. Upon written request to the Board or the Association by the holder, insurer, or guarantor of a Mortgage (which request identifies the name and address of such holder, insurer or guarantor and the Unit Number or address of the property encumbered by the Mortgage held or insured by such holder, insurer, or guarantor), such holder insurer, or guarantor shall be deemed thereafter to be an "Eligible Mortgagee" or "Eligible Insurer" or "Eligible Guarantor," as the case may be, shall be included on the appropriate lists maintained by the Association, and shall be entitled to timely written notice of any of the following:

(1) Condemnation Loss or Award. Any condemnation loss or any casualty loss which affects a material portion of the Project or any Unit on which there is a Mortgage held, insured, or guaranteed by such Eligible Mortgagee, Insurer or Guarantor.

(2) Delinquency. Any delinquency in the payment of Assessments owed by an Owner of a Unit subject to a Mortgage held, insured or guaranteed by such Eligible Mortgagee, Insurer or Guarantor, which delinquency remains uncured for a period of sixty (60) days.

(3) Lapse of Insurance. Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Board or the Association.

(4) Consent Required. Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees.

43. Amendment. This Declaration may be amended as follows:

(a) General. Except as provided elsewhere in this Declaration, including by way of illustration but not limitation to sections pertaining to the addition or annexation of any land, any amendment to this Declaration shall require the affirmative written vote or consent of at least sixty-seven percent (67%) of the total undivided ownership interest in the Common Area and Facilities cast either in person or by proxy at a meeting duly called for such purpose or otherwise approved in writing by such Owners without a meeting.

(b) Declarant Right to Amend. The Declarant may amend, modify, change, repeal or terminate this Declaration prior to the expiration of the Period of Declarant's Control. Such right may be exercised without first obtaining the consent or vote of Unit Owners.

(c) To Satisfy Requirements of Lenders. Anything to the contrary notwithstanding, Declarant reserves the unilateral right to amend all or any part of this Declaration to such extent and with such language as may be requested by a State Department of Real Estate (or similar agency), FHA, VA, the FHLMC or FNMA and to further amend to the extent requested by any other federal, state or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of this Declaration or approval of the sale of Units, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Unit, or any portions thereof. Any such amendment shall be effected by the recordation by Declarant of an Amendment duly signed by the Declarant, specifying the federal, state

or local governmental agency or the federally chartered lending institution requesting the amendment and setting forth the amendatory language requested by such agency or institution. Recordation of such an Amendment shall be deemed conclusive proof of the agency's or institution's request for such an amendment, and such Amendment, when recorded, shall be binding upon all Units and all persons having an interest therein. It is the desire of Declarant to retain control of the Association and its activities during the anticipated period of planning and development. If any amendment requested pursuant to the provisions of hereof deletes, diminishes or alters such control in any manner whatsoever in the opinion of Declarant, then Declarant shall have the unilateral right to amend this Declaration to restore such control.

(d) Declarant's Rights. No provision of this Declaration reserving or granting to Declarant any unexpired developmental rights may be amended, including by way of illustration but not limitation a modification which would terminate or decrease any developmental right, without the prior express written consent of Declarant, which consent may be withheld, conditioned or delayed for any reason or for no reason at Declarant's sole and exclusive discretion.

(e) Execution of Amendments.

(1) An amendment or revocation which only requires the execution of an instrument by Declarant as hereinabove provided shall be effective when executed by Declarant and when recorded in the office of the County Recorder.

(2) An amendment which requires the affirmative written assent or vote of the Owners as hereinabove provided shall be effective when executed by the President and Secretary of the Association, who shall certify that all of the voting requirements have been satisfied, and the Declarant, if the Declarant's consent is also required, and recorded in the office of the County Recorder.

(f) Consent of Eligible Mortgagee to Terminate Legal Status of Project. The consent of at least sixty-seven percent (67%) of the Eligible Mortgagees shall be required to any amendment which would terminate the legal status of the Project.

(g) Consent of Eligible Mortgagees to Add or Amend Any Material Provision. The consent of Eligible Mortgagees holding at least fifty-one (51%) percent of the undivided ownership interest in the Common Areas shall be required to add to or amend any material provision of this Declaration or the Plat which establishes, provides for, governs, or regulates any of the following:

- Voting rights;
- Increases in Assessments that raise the previously assessed amount by more than 25%, Assessment liens, or the priority of Assessment liens;
- Reductions in reserves for maintenance, repair, and replacement of Common Areas, Facilities and Elements;
- Responsibility for maintenance and repairs;

- Reallocation of interests in the Common Area, Limited Common Area, and general or limited common elements, or rights to their use;
- Redefinition of any Unit boundaries;
- Convertibility of Units into Common Area or Elements, or vice versa;
- Expansion or contraction of the Project, or the addition, annexation, or withdrawal of property to or from the Project;
- Hazard or fidelity insurance requirements;
- Imposition of any restrictions on the leasing of Units;
- Imposition of any restrictions on a Unit Owner's right to sell or transfer his Unit;
- A decision by the Association (if the Project consists of more than 50 Units) to establish self-management if professional management had been required previously by the Project Documents or by an Eligible Mortgage holder;
- Restoration or repair of the Project (after damage or partial condemnation) in a manner other than that specified in the documents; and
- Any provisions that expressly benefit Mortgage holders, insurers or guarantors.

Any addition or amendment shall not be considered material for purposes of this paragraph if it is for the clarification only or to correct a clerical error. Notice of any proposed amendment to any Eligible Mortgagee to whom a written request to approve an addition or amendment to this Declaration or the Plat is required shall be mailed postage prepaid to the address for such Mortgagee shown on the list maintained by the Association. Any Eligible Mortgagee who does not deliver to the Committee or the Association a negative response to the notice of the proposed amendment within sixty (60) days from the date of such mailing shall be deemed to have approved the proposal ("Implied Consent"). The foregoing consent requirements shall not be applicable to amendments to this Declaration and the Plat or the termination of the legal status of the Project, if such amendments or such termination are made or accomplished in accordance with the provisions of this Declaration regarding Condemnation or Substantial Obsolescence.

44. Declarant's Sales Program. Anything to the contrary notwithstanding, for so long as Declarant continues to own any of the Units, the following provisions shall be deemed to be in full force and effect, none of which shall be construed so as to relieve the Declarant from any obligations of an Owner to pay Assessments, except as herein otherwise provided, as to each Unit owned by Declarant in accordance with the Declaration. Until the termination of the Period of Declarant's Control, neither the Owners, the Association nor the Board shall interfere with the completion of improvements and sale of all remaining Units, and Declarant shall have the following rights in furtherance of any sales, promotions or other activities designed to accomplish or facilitate the sale of all Units owned by Declarant:

(a) Sales Office and Model Dwellings. Declarant shall have the right to maintain one (1) or more sales offices and one (1) or more model Dwellings at any one time. Such office and/or models may be one or more of the Units owned by the Declarant, one or more separate structures or facilities placed on the Property for the purpose of aiding Declarant's sales effort, or any combination of the foregoing;

(b) Promotional. Declarant shall have the right to maintain a reasonable number

of promotional, advertising and/or directional signs, banners or similar devices at any place or places on the Property.

(c) Common Area Use. Declarant shall have the right to use the Common Areas of the Project.

(d) Relocation and Removal. Declarant shall have the right from time to time to locate or relocate any of its sales offices, models, or signs, banners or similar devices, but in connection with each such location or relocation shall observe the limitations imposed by the preceding portion of this Section. Until 120 days after the expiration of the Sale's Events Period, Declarant shall have the right to remove from the Project any signs, banners or similar devices and any separate structure or facility which was placed on the Property for the purpose of aiding Declarant's sales effort.

45. Limitation on Improvements by Association. Until the expiration of the Sale's Events Period, neither the Association nor the Board shall, without the written consent of Declarant, make any improvement to or alteration in any of the Common Areas and Facilities created or constructed by Declarant, other than such repairs, replacements, or similar matters as may be necessary to properly maintain the Common Areas as originally created or constructed by Declarant.

46. Completion Obligation. Declarant hereby covenants in favor of each Owner that within two (2) years from the date of any contract of sale:

(a) Units. Each Unit which an Owner has contracted to purchase and the Building within which such Unit is contained or is to be contained, and the appurtenant Limited Common Area, shall be substantially constructed and ready for use or occupancy (as the case may be); and

(b) Common Area. There shall be substantially completed and usable as part of the Common Areas all planned landscaping, green space, sidewalks, parking facilities, roads, fences, outdoor lighting, other Common Area improvements shown on the Plat Map, and utility lines and conduits adjacent to the Unit or Building in which a Unit is located, and necessary for its use.

47. Declarant's Rights Assignable. All of the rights of Declarant under this Declaration may be assigned or transferred either by operation of law or through a voluntary conveyance, transfer or assignment. Any Mortgage covering all Units or Buildings in the Project, title to which is vested in Declarant, shall, at any given point in time and whether or not such Mortgage does so by its terms, automatically cover, encumber, and include all of the then unexercised or then unused rights, powers, authority, privileges, protections and controls which are accorded to Declarant (in its capacity as Declarant) herein.

48. Option to Join The Club.

(a) The Declarant may but is not obligated to extend to a purchaser or owner or resident of a Unit an offer to join The Club and participate in the use of some or all of its services and facilities for a fee. Full service consists of access to the fitness, swimming pools, tennis courts

and social room. Partial service does not include tennis. The services, price and user fees are subject to change. Any offer, acceptance and agreement must be in writing signed by the parties.

(b) A power coupled with an interest is hereby granted to the Declarant, its successors and assigns, as attorney in fact to shift membership interests in the Club in accordance with said election and each deed of a Unit or other document of conveyance shall be considered a grant of such power to the Declarant. Various provisions of this First Supplemental Declaration and deeds and mortgages of the Units or Units may contain clauses designed to accomplish a shifting of the membership interest in the Club. None of said provisions shall invalidate the other, but each shall be deemed supplementary to the other toward the end that a valid shifting of the membership interest in the Club can be accomplished; and

(c) On the other hand, if the first purchaser of a Unit designated as optional elects NOT to exercise the option to purchase an Equity membership and join the Club, the Declarant subsequently may but is not obligated to grant to a subsequent owner of the Unit an option to join the Club, but NOT if all of the memberships allocated have been sold; and

(d) The Declarant hereby reserves and grants to the Master Association the right but not the obligation to create an administrative system for owners of Units to exchange, transfer or convey an Equity membership in the Club to another Unit; provided, however, no such Equity membership may be partitioned or separated from THE LOFTS AT IVORY RIDGE, or subdivided, and any attempt to do so shall be void without the express consent of the Declarant. Any such exchange, transfer or conveyance is expressly conditional upon strict compliance with the administrative procedures established and any non-conforming transaction shall be voidable by the Master Association; and

(e) Anything to the contrary notwithstanding:

(1) The option may be offered to some first purchasers but not others. The Declarant is not required to offer the option to all first purchasers or on an equal basis. For example, the Declarant may offer partial or full memberships. Options may be granted without any limitations whatsoever or with restrictions. Provided, however, the Declarant will not allow the total number of memberships in the Club to exceed the amount authorized. No other assurances are made concerning the number of options which will be granted.

(2) The options may be granted at different times without any limitations.

(3) The Master Association and Owners shall not interfere with the granting of said options.

(4) Anything to the contrary notwithstanding the Declaration is not intended, and shall not be construed so as to impose upon Declarant any obligation respecting, or to restrict Declarant in any way with regard to: (a) the granting of such options; (b) the carrying out in any particular way or within any particular time of any of the granting of options which may be undertaken except as herein mentioned; or (c) the taking of any particular action with respect to the

options.

49. Expansion of the Project.

(a) Reservation of Option to Expand. Declarant hereby reserves the option to expand the Project to include additional Units in the Project. This option to expand may be exercised from time to time, at different times and in any order, without limitation, provided however, the option shall expire seven (7) years from the effective date of the Declaration, unless sooner terminated by Declarant's recorded Waiver of such option, there being no other circumstances which will cause the option to expire prior to said seven (7) years. Such right may be exercised without first obtaining the consent or vote of Unit Owners and shall be limited only as herein specifically provided. Such Units shall be created on any or all portions of the Additional Land.

(b) Supplemental Declarations and Supplemental Maps. Such expansion may be accomplished by the filing for record by Declarant in the office of the County Recorder of Utah County, Utah, no later than seven (7) years from the date this Declaration is recorded, a Supplement or Supplements to this Declaration containing a legal description of the site or sites for new Units, together with supplemental Plat Map(s) containing the same information with respect to the new Units as was required on the Map with respect to the initial submission Units. The expansion may be accomplished in Phases by successive supplements or in one supplemental expansion.

(c) Expansion of Definitions. In the event of such expansion, the definitions used in this Declaration automatically shall be expanded to encompass and refer to the Project as so expanded. The term "Property" shall mean the real property initially submitted under the Declaration, plus any Additional Land added to the Project by a Supplemental Declaration or by Supplemental Declarations, and reference to this Declaration shall mean this Declaration as so supplemented. All conveyances of Units after such expansion shall be effective to transfer rights in the Project, with additional references to the Supplemental Declaration and the Supplemental Map. The recordation in the office of the Utah County Recorder of a Supplemental Map incident to any expansion shall operate automatically to grant, transfer, and convey to then Owners of Units in the Project as it existed before such expansion their respective undivided interests in the new Common Areas added to the Project as a result of such expansion. Such recordation shall also operate to vest in any then Mortgagee of any Unit in the Project as it existed, interest so acquired by the Owner of the Unit encumbering the new Common Areas added to the Project as a result of such expansion.

(d) Declaration Operative on New Units. The new Units shall be subject to all the terms and conditions of this Declaration and of a Supplemental Declaration, and the Units therein shall be subject to the incidents of common ownership with all the provisions and protective covenants pertaining to a Condominium Project as specified herein and in accordance with the Act, upon recording the Supplemental Map and Supplemental Declaration in the office of the Utah County Recorder.

(e) Right of Declarant to Adjust Ownership Interest in Common Areas. Each deed of a Unit shall be deemed to irrevocably reserve to the Declarant the power to appoint to Unit Owners, from time to time, the percentages in the Common Areas set forth in Supplemental

Declaration. The proportionate interest of each Unit Owner in the Common Areas after any expansion of the Project shall be an equal undivided ownership interest in the Project's Common Areas as expanded. A power coupled with an interest is hereby granted to the Declarant, its successors and assigns, as attorney in fact to shift percentages of the Common Areas in accordance with Supplemental Declarations recorded pursuant hereto and each deed of a Unit in the Project shall be deemed a grant of such power to the Declarant. Various provisions of this Declaration and deeds and Mortgages of the Units may contain clauses designed to accomplish a shifting of the Common Areas. None of said provisions shall invalidate the other, but each shall be deemed supplementary to the other toward the end that a valid shifting of the Common Areas can be accomplished. Notwithstanding anything to the contrary herein, no change in the percentage of undivided ownership interest in the Common Areas may be effected more than five (5) years after the effective date of the Declaration.

Accordingly, upon the recordation of a Supplemental Declaration and Supplemental Map incident to any expansion, any revised schedule of ownership interests in the Common Areas contained therein shall automatically become effective for all purposes and shall fully supersede any similar schedule which was contained in any declaration associated with any prior Phase. In the event the provisions of the separate instruments relating to the Project conflict irreconcilably, the terms of that instrument which was recorded most recently shall control.

(f) Owners' Obligation Concerning Expansion of Project or Development of the Additional Land. Each Owner, by acquiring an interest in the Project, agrees not to inhibit or oppose Declarant's future development of each portion of the Additional Land (whether or not added to the Project) and the obtaining of necessary approvals therefore. Without limiting the scope of the immediately foregoing sentence, no Owner shall oppose such development in public meetings, by petition, or by legal actions.

(g) Other Provisions Concerning Expansion. If the Project is expanded as hereinbefore contained, then it is further provided that:

(1) All or any part of the Additional Land may be added to the Project without any limitations whatsoever save and except that all additional Units created must be restricted to multi-family residential housing limited to one family per Dwelling Unit.

(2) Portions of the Additional Land may be added to the Project at different times without any limitations.

(3) Declarant shall have the right without further conveyance or documentation to build roads and access ways to the Additional Land through the easement areas as shown on the Map. The Association and Unit Owners shall not allow anything to be built upon or interfere with said easement areas.

(4) No assurances are made concerning:

a. The locations of any improvement that may be made on any

portion of the Additional Land that may be added to the Project.

b. Type, kind or nature of improvement which may be created on any portion of the Additional Land, except that the common facilities, Buildings and Units will be comparable to the initial submission facilities on a per Unit basis and will be of a similar quality of materials and construction to the initial submission.

c. Whether any Units created on any portion of the Additional Land will be substantially identical to those within the initial Project except that Units will be constructed of an equal or better quality of materials and construction than the Units in Phase I.

d. Type, size, or maximum number of Limited Common Areas which may be created within any portion of the Additional Land added to the Project.

(5) Notwithstanding anything to the contrary which may be contained herein, the Declaration is not intended, and shall not be construed so as to impose upon Declarant any obligation respecting, or to restrict Declarant in any way with regard to: (a) the submission of any portion of the Additional Land to the provisions of the Act as Property under this Declaration; (b) the creation, construction, or addition to the Project of any additional property; (c) the carrying out in any particular way or within any particular time of any development which may be undertaken except as herein mentioned; or (d) the taking of any particular action with respect to the Additional Land, the Project, or any Property.

(6) Assuming that only the initial submission of the Project is completed, the number of Buildings would be 3, the number of Units would be 45, and the fractional interest of each Unit would be 1/45. Provided, however, the number of Buildings and Units actually constructed may be somewhere in between the numbers and percentages set forth above.

50. Transfer of Management. Anything to the contrary notwithstanding, Declarant may at any time relinquish its reserved right to select the Members of the Board and may elect to transfer the management of the Project to a Board elected by the Owners. Upon the termination of the Period of Declarant Control, Declarant shall notify Owners in writing of the effective date of such transfer (the "Transfer Date"). Thereupon, the Owners shall call a meeting to elect the Members of the Board to take office as of the Transfer Date. If the Owners fail for any reason to meet or elect Directors, then the Declarant shall have the right but not the obligation to do so. Declarant covenants to cooperate with the Owners in effecting an orderly transition of management. Moreover, Declarant shall cause all obligations for Common Expenses of the Association prior to the Transfer Date to be paid in full on or before such date, and shall transfer any Association funds to the newly elected Board.

51. Interpretation. To the extent Utah law is consistent with this Declaration, such provisions shall supplement the terms hereof and are incorporated herein. The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part

thereof, and any gender shall include both genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof.

52. Covenants to Run with Land. This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of the Association, all other signatories hereto, all parties who hereafter acquire any interest in a Unit or in the Project, and their respective grantees, transferees, heirs, devisees, personal representative, successors, and assigns. Each Owner or occupant of a Unit shall comply with, and all interests in all Units shall be subject to, the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments, supplements, amendments, and determinations contemplated by this Declaration. By acquiring any interest in a Unit in the Project, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

53. Enforcement and Right to Recover Attorneys Fees. Should the Association or Board be required to take action to enforce the Declaration, Bylaws or any administrative Rules and Regulations adopted from time to time, or to pursue any remedy provided hereunder or by applicable law, whether such remedy is pursued by filing suit or otherwise, they may recover all Additional Charges, including a reasonable attorneys fee, which may arise or accrue. In addition, the Board may impose sanctions after proper notice and the opportunity to be heard, including by way of illustration but not limitation the following :

- (a) imposing reasonable monetary fines which shall constitute a lien upon the violator's Unit;
- (b) suspending temporarily an Owner's right to vote;
- (c) suspending temporarily any Person's right to use any of the recreational facilities; provided, however, nothing herein contained shall authorize the Board to limit ingress or egress to or from a Unit;
- (d) suspending temporarily any Person's right to receive utility services paid as a Common Expense; and
- (e) assessing Corrective Assessments, Individual Assessments or Additional Charges to cover costs incurred by the Association to bring a Unit or Unit Owner into compliance.

54. Government Financing. Anything to the contrary notwithstanding, if any financing or the guaranty of any financing on a Unit is provided by the Federal Housing Administration of the United States Department of Housing and Urban Development (FHA), the Federal Home Loan Mortgage Corporation or the Mortgage Corporation (FHLMC), Federal National Mortgage Association (FNMA), Government National Mortgage Association (GNMA) or the Veterans Administration (VA), the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for the purpose of providing utilities and similar or related purposes, and the termination of the legal status of the Project for reasons other

than substantial destruction or condemnation of the property, nor material amendment to the Declaration, or merger, may become effective, as to said Agencies, without their prior express written consent.

55. Fines and Sanctions. In addition to other remedies set forth herein, the Board of Directors may fine or otherwise sanction Owners for violations of the Project Documents, Rules and Regulations.

56. Term. This Declaration, including its amendments and supplements, shall continue for a term of fifty (50) years from its date of recordation. Thereafter, this Declaration shall be automatically extended for successive periods of ten (10) years until a vote of greater than fifty percent (50.01%) of the Eligible Votes of the Owners determines that this Declaration shall terminate.

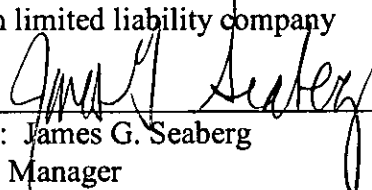
57. Action of Members. Any action allowed or required to be taken by the Members under this Declaration may be taken (i) at a meeting where Members are represented in person, by proxy or by ballot; (ii) by written consent without a meeting; or (iii) by ballot as the Bylaws may allow.

58. Agent for Service of Process. The President of the Association is the person to receive service of process in the cases authorized by Utah law and the Act. The initial Registered Agent is Christopher P. Gamvroulas and the initial office of the Registered Agent is 978 East Woodoak Lane, Salt Lake City, UT 84117.

59. Effective Date. This Declaration, any amendment or supplement hereto, and any amendment or supplement to the Plat Map shall take effect upon its being filed for record in the office of the County Recorder of Utah County, Utah.

EXECUTED the 22 day of August, 2013.

DECLARANT:
THE LOFTS AT IVORY RIDGE, LLC,
a Utah limited liability company

By: 
Name: James G. Seaberg
Title: Manager

STATE OF UTAH)
)ss:
COUNTY OF SALT LAKE)

On the 22 day of August, 2013, personally appeared before me James G. Seaberg, who by me being duly sworn, did say that he is the Manager of The Lofts at Ivory Ridge, LLC, a Utah limited liability company, and that the within and foregoing instrument was signed in behalf of said Company by authority, and said James G. Seaberg duly acknowledged to me that said Company executed the same.



NOTARY PUBLIC



EXHIBIT "A"
LEGAL DESCRIPTION OF THE TRACT

The legal description of the real property referred to above located in Utah County, Utah, known as THE LOFTS AT IVORY RIDGE, an Expandable Utah Condominium Project, according to the official plat thereof recorded in the office of the Utah County Recorder, is:

EXHIBIT "B"

**BYLAWS OF THE
THE LOFTS AT IVORY RIDGE ASSOCIATION**

**ARTICLE I
NAME AND LOCATION**

Section 1 .01 Name and Location. The name of the association is The Lofts at Ivory Ridge Association (the "Association"). The principal office of the corporation shall be located at 978 East Woodoak Lane, Salt Lake City, UT 84117, but meetings of Members and Board of Directors may be held at such places within the State of Utah, as may be designated by Board of Directors.

**ARTICLE II
DEFINITIONS**

Section 2.01 Definitions. Except as otherwise provided herein or as may be required by context, all terms defined in Paragraph 1 of the Declaration shall have such defined meanings when used in these Bylaws.

**ARTICLE III
MEETINGS OF MEMBERS OF THE ASSOCIATION**

Section 3.01 Annual Meeting. The Association shall meet as often as it deems reasonably necessary but not less than annually at a convenient time and place.

Section 3.02 Special Meetings. Special meetings of the Association may be called at any time by the President, by a majority of the Members of the Board of Directors, or by a petition signed by twenty-five percent (25%) of the Units.

Section 3.03 Notice of Meetings. Written notice of each meeting of the Association shall be given to each Owner by or at the direction of the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to said Owner addressed to the Owner's address last appearing on the books of the Association, or supplied by such Owner to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 3.04 Quorum. The Owners present at a meeting of the Association in person or by proxy shall constitute a quorum for any action except as otherwise expressly provided in the Declaration.

Section 3.05 Proxies. At all Association meetings, each Owner may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall expire, if not previously revoked, eleven (11) months after the date it is given by the Owner.

Section 4.06 Voting. Each Unit shall have one (1) vote. Online voting is allowed with adequate software and security.

ARTICLE IV BOARD OF DIRECTORS AND TERM OF OFFICE

Section 4.01 Number. The affairs of the Association shall be managed by a Board of Directors comprised of three (3) natural persons. The Declarant reserves and is hereby granted the right to appoint the Directors during the Period of Declarant's Control. Thereafter, each Director must be duly qualified and elected by the Owners. The initial Directors are Brad Mackay, Darin Haskell and Christopher P. Gamvroulas.

Section 4.02 Replacement. During the Period of Declarant's Control the Declarant shall appoint all replacement Directors. Thereafter, if a Director resigns or is otherwise unable or unwilling to serve, then the remaining Directors shall appoint a replacement to complete his term of office.

Section 4.03 Term of Office. Each Director on the Board shall serve a term of two (2) year; provided, however, for the initial appointments, one person shall be appointed for one (1) year and two people for two (2) years, so that thereafter the terms overlap.

Section 4.04 Compensation. No Director shall receive compensation for any service he may render to the Association as a Directors, although he may be reimbursed for his actual expenses incurred in the performance of his duties and may enter into an independent contract to provide other services. A Director may enter into a separate and independent contract with the Association to provide additional services for a fee.

Section 4.05 Action Taken Without a Meeting. The Board of Directors shall have the right to take any action in the absence of a meeting which it could take at a meeting by obtaining the written approval of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Board of Directors.

Section 4.06 Voting. Each Director shall have one (1) vote. Online voting is allowed with adequate software and security.

Section 4.07 Voting Representative on the Master Association. The Board of Directors shall select a Delegate to serve as the voting representative for The Lofts at Ivory Ridge on the Master Association. The Delegate must be a Director.

ARTICLE V POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 5.03 Powers. The Association shall have all of the powers of a Utah non-profit corporation, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, the Bylaws and this Declaration. The Association shall have the power to perform any and all lawful acts which may be necessary or proper for, or incidental to, the exercise

of any of the express powers of the Association. Without in any way limiting the generality of the foregoing, the Association may act through its Board of Directors and shall specifically have the powers and duties set out in this Article V, including

Section 5.03.1 Assessments. The power and duty to levy Assessments on the Owners, and to enforce payment of such Assessments in accordance with the Declaration.

Section 5.03.2 Association Property. The right to own and/or lease the Association Property and the duty to maintain and manage the Common Areas and Facilities and improvements thereon. In particular the Association shall:

- a. Maintain and repair in an attractive, safe and functional condition the Common Areas and Facilities;
- b. Pay all taxes and Assessments levied upon the Common Areas and Facilities and all taxes and Assessments payable by the Association;
- c. Obtain any water, sewer, gas and electric services needed for the Common Areas and Facilities; and
- d. Do each and every other thing reasonable and necessary to operate the Common Areas and Facilities and the Association.

ARTICLE VI OFFICERS AND THEIR DUTIES

Section 6.01 Enumeration of Officers. The officers of the Association shall be a president and secretary, plus such other officers as the Board of Directors may from time to time by resolution create. The same individual may not hold the office of president and secretary at the same time. The officers need not be Directors.

Section 6.02 Election of Officers. The Board of Directors shall elect or appoint officers at the first meeting of the Board of Directors during each calendar year.

Section 6.03 Term. Each officer of the Association shall hold office for one (1) year unless he shall sooner resign, or shall be removed or otherwise disqualified to serve.

Section 6.04 Special Appointments. The Board of Directors may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board of Directors may from time to time determine.

Section 6.05 Resignation and Removal. Any officer may be removed from office with or without cause by a majority vote of the Board of Directors. Any officer may resign at any time by giving written notice to the Board of Directors, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise

specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6.06 Vacancies. A vacancy in any office may be filled by appointment by the Board of Directors. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 6.07 President. The president shall (a) preside at all meetings of the Board of Directors and (b) see that orders and resolutions of the Board of Directors are carried out.

Section 6.08 Secretary. The secretary shall (a) record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the Association, (b) keep the corporate seal of the Association (if any) and affix it (if available) on all papers requiring said seal, (c) serve notice of meetings of the Board of Directors and of the Association, (d) keep appropriate current record showing the Members of the Association together with their addresses and (e) perform such other duties as may be required by the Board of Directors.

ARTICLE VII COMMITTEES

Section 7.01 Committees. The Board of Directors may appoint such committees as deemed appropriate in carrying out its purpose.

ARTICLE VIII BOOKS AND RECORDS

Section 8.01 Books and Records. The books and records shall be kept with detailed accounts of the receipts and expenditures affecting the Tract, and the administration of the Tract, specifying the maintenance, repair and any other expenses incurred. The books and records, including any invoices, receipts, bills, proposals, documents, financial statements, and vouchers accrediting the entries thereupon shall be available for examination by the Owners, their duly authorized agents or attorneys, during general business hours on working days at the times and in the manner that shall be set and announced by the Board of Directors for the general knowledge of the Owners. All books and records shall be kept in accordance with generally accepted accounting practices.

Section 8.02 Signatures. The Board of Directors shall determine who shall be required to sign checks, drafts, contracts, or other legally binding agreements.

Section 8.03 Bookkeeping. The accounting and financial statements for Association must be kept and prepared by either the property manager or an independent bookkeeper or accountant, who may not be a Director or an officer of the Association. A monthly profit and loss statement, balance sheet, and check register shall be sent or delivered by the bookkeeper or accountant to each Directors. The accountant or bookkeeper shall prepare and file all tax returns for the Association.

Section 8.04 Audit. Either a (a) majority vote of the Directors or (b) majority vote of all of the Owners is necessary and sufficient to require either a Compilation Report, Reviewed Statement

or Audited Statement of the financial books and records of the Association.

**ARTICLE IX
AMENDMENTS**

Section 9.01 Amendment to Bylaws. These Bylaws may only be amended (a) unilaterally by the Developer until the expiration of the Period of Developer’s Control or (b) the affirmative vote of a majority of the Directors, or (c) a majority of the Owners. In the event of a conflict between the decision of the Owners and the Board, the former shall in all respects govern and control.

Section 9.02 Conflict Between Articles, Bylaws and Declaration. In the case of any conflict between the Declaration and these Bylaws or Articles of Incorporation, the former shall in all respects govern and control.

**ARTICLE X
MISCELLANEOUS**

Section 10.01 Miscellaneous. The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

EXECUTED the 22 day of August, 2013.

DECLARANT:
THE LOFTS AT IVORY RIDGE, LLC,
a Utah limited liability company

By: *James G. Seaberg*
Name: James G. Seaberg
Title: Manager

STATE OF UTAH)
)ss:
COUNTY OF SALT LAKE)

On the 22 day of August, 2013, personally appeared before me James G. Seaberg, who by me being duly sworn, did say that he is the Manager of The Lofts at Ivory Ridge, LLC, a Utah limited liability company, and that the within and foregoing instrument was signed in behalf of said Company by authority, and said James G. Seaberg duly acknowledged to me that said Company executed the same.

Bart Kevin Blaisdell
NOTARY PUBLIC



EXHIBIT "C"
DESCRIPTION OF UNITS AND PERCENTAGES OF OWNERSHIP

Building Number	Unit Number	Square Footage	Percentage
Building #1	101	1,063	0.02222222
Building #1	102	1,100	0.02222222
Building #1	103	1,132	0.02222222
Building #1	104	1,131	0.02222222
Building #1	105	1,327	0.02222222
Building #1	201	1,068	0.02222222
Building #1	202	1,100	0.02222222
Building #1	203	1,488	0.02222222
Building #1	204	1,488	0.02222222
Building #1	205	1,371	0.02222222
Building #1	301	1,068	0.02222222
Building #1	302	1,100	0.02222222
Building #1	303	1,488	0.02222222
Building #1	304	1,488	0.02222222
Building #1	305	1,371	0.02222222
Building #2	101	1,063	0.02222222
Building #2	102	1,100	0.02222222
Building #2	103	1,132	0.02222222
Building #2	104	1,131	0.02222222
Building #2	105	1,327	0.02222222
Building #2	201	1,068	0.02222222
Building #2	202	1,100	0.02222222
Building #2	203	1,488	0.02222222
Building #2	204	1,488	0.02222222
Building #2	205	1,371	0.02222222
Building #2	301	1,068	0.02222222
Building #2	302	1,100	0.02222222
Building #2	303	1,488	0.02222222
Building #2	304	1,488	0.02222222
Building #2	305	1,371	0.02222222
Building #3	101	1,327	0.02222222
Building #3	102	1,131	0.02222222
Building #3	103	1,132	0.02222222
Building #3	104	1,100	0.02222222
Building #3	105	1,063	0.02222222
Building #3	201	1,371	0.02222222
Building #3	202	1,488	0.02222222
Building #3	203	1,488	0.02222222
Building #3	204	1,100	0.02222222
Building #3	205	1,068	0.02222222

Building #3	301	1,371	0.02222222
Building Number	Unit Number	Square Footage	Percentage
Building #3	302	1,488	0.02222222
Building #3	303	1,488	0.02222222
Building #3	304	1,100	0.02222222
Building #3	305	1,068	0.02222222